FEDERAL REGISTER

VOLUME 24 · NUMBER 183

Washington, Friday, September 18, 1959

Title 2—THE CONGRESS

ACTS APPROVED BY THE PRESIDENT

CROSS REFERENCE: A list of current public laws approved by the President appears at the end of this issue immediately preceding the Cumulative Codification Guide.

Title 3—THE PRESIDENT

Proclamation 3313

1959 PACIFIC FESTIVAL

By the President of the United States of America

A Proclamation

WHEREAS there is to be held at San Francisco, California, from September 18, 1959, to September 27, 1959, inclusive, an event known as "Pacific Festival Days"; and

WHEREAS the purpose of this festival is to focus attention on the growth and development of cities, States, and nations bordering the Pacific Ocean and thereby to foster mutual understanding and cordial relations among the peoples of these areas; and

WHEREAS the Congress, by a joint resolution approved September 14, 1959, has authorized and requested the President to issue a proclamation inviting foreign nations to participate in the 1959 Pacific Festival; and

WHEREAS participation by both American citizens and foreign nationals in this event is in keeping with our objective of cultivating better relationships among the nations and the peoples of the world; and it may be expected to contribute to the welfare and benefit of all concerned:

NOW, THEREFORE, I, DWIGHT D. EISENHOWER, President of the United States of America, do hereby authorize and direct the Secretary of State to invite, on my behalf, such foreign nations as he may consider appropriate to participate in the 1959 Pacific Festival at San Francisco, California, from September 18 to September 27, 1959.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the United States of America to be affixed.

DONE at the City of Washington this fourteenth day of September in the year of our Lord nineteen hundred [SEAL] and fifty-nine, and of the Independence of the United States of America the one hundred and eighty-fourth.

DWIGHT D. EISENHOWER

By the President:

CHRISTIAN A. HERTER,
Secretary of State.

[F.R. Doc. 59-7822; Filed, Sept. 16, 1959; 1:39 p.m.]

Proclamation 3314

SUPPLEMENTING PROCLAMATIONS PROVIDING FOR REGISTRATION UNDER THE UNIVERSAL MILITARY TRAINING AND SERVICE ACT, AS AMENDED

By the President of the United States of America

A Proclamation

WHEREAS under authority vested in him by the Universal Military Training and Service Act (62 Stat. 604), as amended, the President by Proclamations No. 2799 of July 20, 1948, No. 2937 of August 16, 1951, No. 2938 of August 16, 1951, No. 2942 of August 30, 1951, and No. 2972 of April 17, 1952, provided for the registration of male citizens of the United States and of other male persons who are subject to registration under section 3 of the said Act;

WHEREAS certain provisions of each of the aforesaid proclamations refer to or applied to or within the Territories of Alaska and Hawaii; and

WHEREAS the State of Alaska was admitted into the Union on January 3, 1959, and the State of Hawaii was likewise admitted on August 21, 1959:

NOW, THEREFORE, I, DWIGHT D. EISENHOWER, President of the United States of America, acting under and by virtue of the authority vested in me by the Constitution and the statutes, in-

(Continued on p. 7519)

CONTENTS

FEDERAL REGISTER

REpublic 7-7500 Extension 3261

Published daily, except Sundays, Mondays, and days following official Federal holidays, by the Office of the Federal Register, National Archives and Records Service, General Services Administration, pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. 500, as amended; 44 U.S.C., ch. 8B), under regulations prescribed by the Administrative Committee of the Federal Register, approved by the President. Distribution is made only by the Superintendent of Documents, Government Printing Office, Washington 25, D.C.

The FEDERAL REGISTER will be furnished by mail to subscribers, free of postage, for $1.50 per month or $15.00 per year, payable in advance. The charge for individual copies (minimum 15 cents) varies in proportion to the size of the issue. Remit check or money order, made payable to the Superintendent of Documents, directly to the Government Printing Office, Washington 25, D.C.

The regulatory material appearing herein is keyed to the CODE OF FEDERAL REGULATIONS, which is published, under 50 titles, pursuant to section 11 of the Federal Register Act, as amended August 5, 1953. The CODE OF FEDERAL REGULATIONS is sold by the Superintendent of Documents. Prices of books and pocket supplements vary.

There are no restrictions on the republication of material appearing in the FEDERAL REGISTER, or the CODE OF FEDERAL REGULATIONS.

CONTENTS—Continued

CONTENTS—Continued

CONTENTS—Continued

CONTENTS—Continued

CODIFICATION GUIDE

A numerical list of the parts of the Code of Federal Regulations affected by documents published in this issue. Proposed rules, as opposed to final actions, are identified as such.

A Cumulative Codification Guide covering the current month appears at the end of each issue beginning with the second issue of the month.

CODIFICATION GUIDE—Con.

cluding the Universal Military Training and Service Act, as amended, do proclaim that all of the provisions of the aforesaid proclamations which refer to or applied to or within the Territory of Alaska or the Territory of Hawaii shall; on and after January 3, 1959, the date Alaska was admitted to the Union as a State, and on and after August 21, 1959, the date Hawaii was likewise admitted, refer to or apply to or within the State of Alaska and the State of Hawaii, respectively.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the United States of America to be affixed.

DONE at the City of Washington this fourteenth day of September in the year of our Lord nineteen hundred [SEAL] and fifty-nine, and of the Independence of the United States of America the one hundred and eighty-fourth.

DWIGHT D. EISENHOWER

By the President:

CHRISTIAN A. HERTER,
Secretary of State.

[F.R. Doc. 59-7823; Filed, Sept. 16, 1959; 1:39 p.m.]

Executive Order 10838

FURTHER AMENDMENT OF EXECUTIVE ORDER NO. 10700,[1] AS AMENDED, PROVIDING FOR THE OPERATIONS COORDINATING BOARD

By virtue of the authority vested in me by the Constitution and statutes, and as President of the United States, it is ordered that section 1(b)(1) of Executive Order No. 10700 of February 25, 1957, as amended by Executive Order No. 10773 of July 1, 1958, be, and it is hereby amended to read as follows:

"(1) the Under Secretary of State for Political Affairs, who shall represent the Secretary of State,".

DWIGHT D. EISENHOWER

THE WHITE HOUSE,

September 16, 1959.

[F.R. Doc. 59-7856; Filed, Sept. 17, 1959; 9:40 a.m.]

RULES AND REGULATIONS

Title 7—AGRICULTURE

Chapter III—Agricultural Research Service, Department of Agriculture

PART 330—FEDERAL PLANT PEST REGULATIONS

Holding of Means of Conveyance Arriving in the United States; Further Postponment of Effective Date

On June 9, 1959, there was published in the FEDERAL REGISTER (24 F.R. 4650) a notice stating that effective at 12:01 a.m., local time, July 1, 1959, means of conveyance subject to the inspection and release requirements of § 330.105(a) of the Federal Plant Pest Regulations (7 CFR, 1958 Supp., 330.105(a)) and arriving at any port of entry outside the regularly assigned hours of duty of the Federal plant quarantine inspector, will be held for such inspection and release, until the regularly assigned hours of duty. The notice also provided for reimbursable inspection and release outside the regularly assigned hours of duty. On July 2, 1959, and August 26, 1959, there were also published in the FEDERAL REGISTER (24 F.R. 5363, 6889) orders successively postponing the effective date of the notice published June 9, 1959, until, respectively, 12:01 a.m., local time, September 1, 1959, and 12:01 a.m., local time, September 20, 1959.

In order to permit a further review of the effects of the notice with representatives of the affected industry, notice is here given that inspection and release will continue to be provided outside the regularly assigned hours of duty as heretofore through October 17, 1959. Therefore, the effective date of the notice published June 9, 1959 is postponed until 12:01 a.m., local time, October 18, 1959.

(Sec. 106, 71 Stat. 33, 64 Stat. 561; 7 U.S.C. 150ee, 5 U.S.C. 576)

Done at Washington, D.C., this 14th day of September 1959.

[SEAL] M. R. CLARKSON,
Acting Administrator,
Agricultural Research Service.

[F.R. Doc. 59-7786; Filed, Sept. 17, 1959; 8:50 a.m.]

[1] 22 F.R. 1111; 3 CFR, 1957 Supp., p. 60.

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 6—EXCEPTIONS FROM THE COMPETITIVE SERVICE

Civil Aeronautics Board

Effective upon publication in the FEDERAL REGISTER, paragraph (p) is added to § 6.337 as set out below.

§ 6.337 **Civil Aeronautics Board.**

* * * * *

(p) The Executive Director of the Board.

(R.S. 1753, sec. 2, 22 Stat. 403, as amended; 5 U.S.C. 631, 633)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] WM. C. HULL,
Executive Assistant.

[F.R. Doc. 59-7804; Filed, Sept. 17, 1959; 8:51 a.m.]

PART 6—EXCEPTIONS FROM THE COMPETITIVE SERVICE

Department of State

Effective upon publication in the FEDERAL REGISTER, paragraphs (d)(2) and (r)(1) of § 6.302 are amended, the headnote of paragraph (r) is amended, and paragraph (m)(4) is added as set out below.

§ 6.302 **Department of State.**

* * * * *

(d) *Office of the Assistant Secretary for Public Affairs.* * * *

(2) One Deputy Assistant Secretary.

* * * * *

(m) *Office of the Legal Adviser.* * * *

(4) One Special Assistant to the Legal Adviser.

* * * * *

(r) *Office of the Under Secretary for Political Affairs.* (1) Two Special Assistants and one Confidential Assistant to the Under Secretary.

(R.S. 1753, sec. 2, 22 Stat. 403, as amended; 5 U.S.C. 631, 633)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] WM. C. HULL,
Executive Assistant.

[F.R. Doc. 59-7805; Filed, Sept. 17, 1959; 8:51 a.m.]

Title 6—AGRICULTURAL CREDIT

Chapter I—Farm Credit Administration

SUBCHAPTER E—PRODUCTION CREDIT SYSTEM

PART 50—PRODUCTION CREDIT ASSOCIATIONS

Financing of Corporations

Pursuant to the authority vested in the Governor of the Farm Credit Administration by section 20 of the Farm Credit Act of 1933, as amended (12 U.S.C. 1131d), and as prescribed by the farm credit board of each district with the approval of the Farm Credit Administration pursuant to section 23 of said Act, as amended (12 U.S.C. 1131g), § 50.102 of Title 6 of the Code of Federal Regulations (21 F.R. 10328) is hereby amended to read as follows:

§ 50.102 **Corporation.**

To be considered a farmer or rancher a corporation must be engaged in actual farming operations or livestock production and must meet one of the following qualifications:

(a) At least 75 percent in value and number of shares of its capital stock must be owned by the individuals personally actually conducting the farming or livestock operations of the corporation; or

(b) The major portion of the assets of the corporation must consist of property actually devoted to farming or livestock production and at least half of its gross income must be derived from such operations.

(Secs. 20, 23, 48 Stat. 259, 261, as amended; 12 U.S.C. 1131d, 1131g)

[SEAL] HAROLD T. MASON,
Acting Governor,
Farm Credit Administration.

[F.R. Doc. 59-7748; Filed, Sept. 17, 1959; 8:45 a.m.]

Chapter IV—Commodity Stabilization Service and Commodity Credit Corporation, Department of Agriculture

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

[1959 CCC Cotton Bulletin 2, Amdt. 3]

PART 427—COTTON

Subpart—1959 Cotton Purchase Program Regulations

PREPARATION OF DOCUMENTS

The regulations issued by Commodity Credit Corporation and Commodity Stabilization Service, published in 24 F.R. 3482, 4876 and 6643 as 1959 CCC Cotton Bulletin 2 and containing the terms and conditions with respect to the 1959 Cotton Purchase Program, are hereby amended to revise the procedure dealing with the time when the Agreement of Warehouseman on the Form SA must be executed by the warehouseman in order to facilitate the disbursement to the producer by the purchasing agency of the purchase price for cotton sold by the producer to CCC under the provisions of this subpart.

Section 427.1062(b) is hereby amended to read as follows:

§ 427.1062 **Preparation of documents.**

* * * * *

(b) The Purchasing Agency's Certificate on each Form SA tendered for purchase by CCC must be executed by the purchasing agency making the purchase from the producer. The original of Form SA must be signed by the producer, and the copy marked "producer's copy" is to be retained by the producer. Purchase forms must not be signed in blank. All applicable entries, except entries under the Agreement of Warehouseman, must be completed prior to the time the form is signed by the producer and the purchasing agency. If the Agreement of Warehouseman on Form SA is not executed prior to payment of the purchase price, the purchasing agency shall require the producer to pay charges due the warehouseman according to § 427.1066 and, before tendering the purchase documents to CCC, shall present the Form SA, class cards and warehouse receipts to the warehouseman for execution of the Agreement of Warehouseman on Form SA and for stamping of the warehouse receipts to reflect the date through which charges have been paid. The proper status of the producer (i.e., whether landowner, landlord, tenant, or sharecropper) must be shown in the space provided therefor on Form SA and all landowners and landlords must sign the Lienholder's Waiver on such forms whether or not they claim liens unless the landowners and landlords as eligible producers are selling their cotton jointly. Cotton of various grades and staple lengths may be included on one Form SA. All of the cotton on a Sales Agreement must have been ginned at the same gin, must be stored in the same warehouse, and the gin bale number of each bale must be entered in the applicable column of the Schedule of Cotton Sold on the Form SA. Not more than 999 bales shall be included on any one Sales Agreement. When a producer has two or more Choice (A) farms, the cotton produced on different farms shall not be entered on the same Form SA.

Section 427.1068 is hereby amended to read as follows:

§ 427.1068 **Manner of payment to producers.**

Purchases of cotton under the 1959 Cotton Purchase Program will ordinarily be made by purchasing agencies acting as agents for CCC. In such case, the producers must tender a Cotton Producer's Sales Agreement, together with forms required in § 427.1058, to the purchasing agency not later than April 30, 1960. After completion of the Form SA in accordance with § 427.1062, the purchasing agency will pay the purchase price on behalf of CCC in the manner directed in the Producer's Sales Agreement on such Form SA and will distribute the copies of Form SA in accordance with the provisions of the Purchasing Agency Agreement. A producer may also obtain payments direct from CCC by tendering a properly executed Form SA, together with forms required in §427.1058, to the New Orleans office not later than April 30, 1960. In case payment is to be obtained direct from CCC, the sales documents shall be transmitted to the New Orleans office by the county office of the county in which the producer's farm is located.

(Sec. 4, 62 Stat. 1070, as amended; 15 U.S.C. 714b. Interpret or apply sec. 5, 62 Stat. 1072,

secs. 101, 102, 401, 63 Stat. 1051, as amended; 15 U.S.C. 714c, 7 U.S.C. 1441, 1443, 1421)

Issued this 15th day of September, 1959.

WALTER C. BERGER,
Executive Vice President,
Commodity Credit Corporation.

[F.R. Doc. 59-7787; Filed, Sept. 17, 1959; 8:50 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Agency

[Reg. Docket No. 118, Amdt. 20-11]

PART 20—PILOT AND INSTRUCTOR CERTIFICATES

Prerequisites for Issuance of Class or Type Ratings to Private and Commercial Pilots

Section 20.121(b)(1) requires that an applicant for a class or type rating must have made 5 takeoffs and landings as pilot in command and sole manipulator of the controls prior to an appropriate flight test.

The pilot in command portion of this rule imposes a solo flight requirement whenever the aircraft is certificated for operation by a single pilot. Certain pilots have encountered difficulties in obtaining the solo experience required by § 20.121(b)(1) because of the reluctance of aircraft owners to allow their planes to be operated in solo flight by unrated pilots. In the final analysis, the applicant's qualification for the additional rating sought is determined by a demonstration to an FAA Inspector or designated pilot examiner that he can safely fly the aircraft. Consequently, the modification of this technical requirement will not reduce the required level of pilot competency.

This situation can be alleviated by permitting an applicant to satisfy the experience requirements of § 20.121(b)(1) by acquiring the 5 takeoffs and landings as the sole manipulator of the controls, irrespective of whether such is accomplished as the sole occupant of the aircraft or during that period when an appropriately rated pilot is also aboard.

Inasmuch as this amendment will liberalize the experience requirement for a class or type rating and imposes no additional burden on any person, compliance with the notice, procedures, and effective date provisions of section 4 of the Administrative Procedure Act is unnecessary and not required.

In consideration of the foregoing, Part 20 of the Civil Air Regulations (14 CFR Part 20) is hereby amended as follows:

1. By amending § 20.121(b)(1) to read as follows:

§ 20.121 Additional aircraft ratings.

* * * * *

(b) *Class or type rating.* * * *

(1) Have made at least 5 takeoffs and landings in solo flight or as sole manipulator of the controls when accompanied by a pilot rated for the aircraft for which the class or type rating is sought.

This amendment shall become effective upon the date of its publication in the FEDERAL REGISTER.

(Sec. 313(a), 601, 602, 608, 609, 610, 72 Stat. 752, 775, 779, 780; 49 U.S.C. 1354, 1421, 1422, 1428, 1429, 1430)

Issued in Washington, D.C., on September 11, 1959.

JAMES T. PYLE,
Acting Administrator.

SEPTEMBER 11, 1959.

[F.R. Doc. 59-7749; Filed, Sept. 17, 1959; 8:45 a.m.]

Chapter III—Federal Aviation Agency

SUBCHAPTER C—AIRCRAFT REGULATIONS

[Reg. Docket No. 67; Amdt. 43]

PART 507—AIRWORTHINESS DIRECTIVES

Fairchild F-27 Aircraft

A proposal to amend Part 507 of the regulations of the Administrator to include an airworthiness directive requiring the incorporation of shroud drains to eliminate the possibility of fuel leakage creating a fire hazard in the air conditioning compartment of Fairchild F-27 aircraft was published in 24 F.R. 5848.

Interested persons have been afforded an opportunity to participate in the making of the amendment. No objections were received.

In consideration of the foregoing § 507.10(a) is amended by adding the following new airworthiness directive:

59-18-5 FAIRCHILD. Applies to all F-27 Series aircraft equipped with the heater system.

Compliance required not later than October 15, 1959.

(a) In order to provide drainage of possible leakage at the heater fuel line fittings, remove three shroud assemblies, P/N 27-774575-1, attached to tube connections at top of heater fuel control, P/N 43C80, and heater P/N 49C65. Modify shroud assemblies by punching one (1) ⅛ inch diameter hole in side of shroud $1\frac{13}{64}$ inches from top.

(b) Remove fuel control drain tube assembly, P/N 27-774554-11 or -51, whichever installed.

(c) On airplanes Nos. 1 to 6 inclusive, drill ⅝ inch diameter hole in bottom fuselage skin between stringers No. 102 and 103, 2½ inches aft of station 731, and install AN 931-6-10 grommet removed from former location of drain line. Install flush skin patch over former drain hole location in accordance with Chapter 51-7 of F-27 Structural Repair Manual.

(d) On all affected airplanes, install new drain tube assembly, P/N 27-774750-11 in place of 27-774554-11 or -51.

(e) Install modified shroud assemblies, using three each new half clamp assemblies, P/N 27-774749-11, half clamp P/N 27-774749-3, bolt P/N AN3-3A, and nuts P/N MS 20365-1032.

(f) Install one each new hose, P/N 27-774094-3 and -5 between heater fuel control shrouds and drain tube, and P/N 27-774094-7 between heater shroud and drain tube, using six new clamps, P/N AN737RM22.

(g) Install two new plates, P/N 27-774749-9, on the heater fuel control unit, and four new clamps, P/N AN742-8, two on the plates at the fuel control unit to support 27-774094-3 and -5 hose and two on the flanges of the fuselage former at stations 730 and 731 to suport 27-774094-7 hose. Use four each new screws P/N AN525-10R6, and nuts P/N MS20365-1032.

(Fairchild F-27 Service Bulletin No. 21-49 dated June 12, 1959, covers this same subject.)

Compliance with AD 59-12-1 no longer required after compliance with this directive.

(Sec. 313(a), 601, 603; 72 Stat. 752, 775, 776; 49 U.S.C. 1354(a), 1421, 1423)

Issued in Washington D.C., on September 11, 1959.

JAMES T. PYLE,
Acting Administrator.

SEPTEMBER 11, 1959.

[F.R. Doc. 59-7750; Filed, Sept. 17, 1959; 8:45 a.m.]

[Reg. Docket No. 66; Amdt. 27]

PART 514—TECHNICAL STANDARD ORDERS FOR AIRCRAFT MATERIALS, PARTS, PROCESSES, AND APPLIANCES

Life Rafts (Twin Tube)

A proposed amendment to the Technical Standard Order which establishes minimum performance standards for life rafts used on civil aircraft of the United States, was published in 24 F.R. 5848.

Interested persons have been afforded an opportunity to participate in the making of the amendment. No objections were received.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (24 F.R. 5662), Part 514 of the regulations of the Administrator (14 CFR Part 514) is hereby amended as follows:

Section 514.22 is amended to read as follows:

§ 514.22 Life rafts (twin tube)—TSO-C12b.

(a) *Applicability*—(1) *Minimum performance standards.* Minimum performance standards are hereby established for life rafts (twin tube) which specifically are required to be approved for use on civil aircraft of the United States. New models of life rafts manufactured on or after October 15, 1959, shall meet the standards set forth in the ATA Specification No. 800, "Airline Life Rafts," dated May 1, 1950,[1] with the additional requirements shown in subparagraph (2) of this paragraph. Life raft models approved by the Administrator prior to October 15, 1959, may continued to be used under the provisions of their original approval until they are no longer seaworthy.

(2) *Additional requirements.* The degree of inflation shall be such that the raft will be "rounded-out" (i.e., attain its design shape and approximate di-

[1] Copies may be obtained from the Air Transport Association, 1000 Connecticut Avenue NW., Washington 6, D.C.

mensions) to be able to receive the first occupant within one minute after the start of inflation. Thereafter, inflation during boarding by the remainder of occupants shall be sufficient to ensure a serviceable and rigid raft.

(b) *Marking.* In lieu of the marking requirements specified by § 514.3, the marking instructions contained in ATA Specification No. 800 shall be acceptable and, in addition, each life raft shall be permanently marked with the Technical Standard Order designation, FAA–TSO–C12b, to identify the life raft as meeting the requirements of this section.

(c) *Data requirements.* (1) One copy each of the manufacturer's operation and inflation instructions, schematic diagrams, and installation procedures shall furnished the Chief, Engineering and Manufacturing Division, Federal Aviation Agency, Washington 25, D.C., with the statement of conformance.

(2) The raft manufacturer must also provide the purchaser with applicable limitations pertaining to installation of rafts on aircraft. These limitations shall include the minimum and maximum stowage area temperatures and any other limitations which will prevent the raft from performing its intended function and complying with the minimum performance standards under all reasonably foreseeable emergency conditions.

(d) *Effective date.* October 15, 1959.

(Secs. 313(a), 601; 72 Stat. 752, 775; 49 U.S.C. 1354(a), 1421)

Issued in Washington, D.C., on September 14, 1959.

WILLIAM B. DAVIS,
Director, Bureau of Flight Standards.

[F.R. Doc. 59–7752; Filed, Sept. 17, 1959; 8:46 a.m.]

Title 15—COMMERCE AND FOREIGN TRADE

Chapter II—National Bureau of Standards, Department of Commerce

SUBCHAPTER B—STANDARD SAMPLES AND REFERENCE STANDARDS

PART 230—STANDARD SAMPLES AND REFERENCE STANDARDS ISSUED BY THE NATIONAL BUREAU OF STANDARDS

Subpart B—Standard Samples and Reference Standards With Schedule of Weights and Fees

In accordance with the provisions of section 4 (a) and (c) of the Administrative Procedure Act, it has been found that notice and hearing on these schedules of fees are unnecessary for the reason that such procedures, because of the nature of these rules, serve no useful purpose. These schedules are effective from August 15, 1959.

Section 230.11 *Descriptive list,* is amended to include a new paragraph (cc) *Thermometric standard cells,* to read as follows:

(cc) *Thermometric standard cells.*

Sample No.	Description	Price per sample
940	Phenol cells	$50
941	Naphthalene cells	50
942	Phthalic anhydride cells	50

(Sec. 9, 31 Stat. 1450, as amended; 15 U.S.C. 277. Interprets or applies sec. 7, 70 Stat. 959; 15 U.S.C. 275a)

Dated: September 11, 1959.

[SEAL] R. D. HUNTOON,
Deputy Director, National Bureau of Standards.

Approved:

F. H. MUELLER,
Secretary of Commerce.

[F.R. Doc. 59–7784; Filed, Sept. 17, 1959; 8:49 a.m.]

Title 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T.D. 54932]

PART 11—PACKING AND STAMPING; MARKING; TRADE-MARKS AND TRADE NAMES; COPYRIGHTS

Miscellaneous Amendments

It has been determined as a result of a study of the procedures and requirements for recording trade-marks and trade names with the Treasury Department that the requirements concerning "related companies" should be eliminated.

Accordingly, Part 11 is amended as follows:

1. Section 11.14(b) is amended by deleting ", or by a related company as defined in section 45 of the Trade-Mark Act of 1946.[15]" found in the last sentence and adding a period following "corporation".

2. Part 11 is amended by inserting a footnote number 15 at the end of the first sentence of § 11.14(a). The text of the footnote shall read:

[15] "(a) It shall be unlawful to import into the United States any merchandise of foreign manufacture if such merchandise, or the label, sign, print, package, wrapper, or receptacle, bears a trade mark owned by a citizen of, or by a corporation or association created or organized within, the United States, and registered in the Patent Office by a person domiciled in the United States, under the provisions of sections 81–109 of Title 15, and if a copy of the certificate of registration of such trade mark is filed with the Secretary of the Treasury, in the manner provided in section 106 of said Title 15, unless written consent of the owner of such trade mark is produced at the time of making entry.

"(b) Any such merchandise imported into the United States in violation of the provisions of this section shall be subject to seizure and forfeiture for violation of the customs laws.

"(c) Any person dealing in any such merchandise may be enjoined from dealing therein within the United States or may be required to export or destroy such merchandise or to remove or obliterate such trade mark and shall be liable for the same damages and profits provided for wrongful use of a trade mark, under the provisions of sections 81–109 of Title 15." (19 U.S.C. 1526.)

3. Part 11 is amended by deleting footnote 17.

4. The citation of authority for § 11.14 is amended to read "(Sec. 42, 60 Stat. 440, sec. 526, 46 Stat. 741; 15 U.S.C. 1124, 19 U.S.C. 1526.)".

5. Section 11.15(a) is amended by deleting "related company or" found in the first sentence.

6. Section 11.16 is amended by deleting "related company or" found in the first sentence.

(Sec. 42, 60 Stat. 440; 15 U.S.C. 1124)

Notice of the issuance of the foregoing amendments was published in the FEDERAL REGISTER on May 1, 1959 (24 F.R. 3513). No arguments against the proposed amendments have been received and the amendments set forth above are hereby adopted.

These amendments shall become effective upon the expiration of 30 days after publication in the FEDERAL REGISTER.

[SEAL] D. B. STRUBINGER,
Acting Commissioner of Customs.

Approved: September 10, 1959.

A. GILMORE FLUES,
Acting Secretary of the Treausry.

[F.R. Doc. 59–7780; Filed, Sept. 17, 1959; 8:48 a.m.]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 51—CANNED VEGETABLES; DEFINITIONS AND STANDARDS OF IDENTITY; QUALITY; AND FILL OF CONTAINER

Canned Peas; Effective Date of Order Amending Standard of Identity

In the matter of amending the standard of identity for canned peas:

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 701, 52 Stat. 1055, as amended 70 Stat. 919; 21 U.S.C. 371) and the authority delegated to the Commissioner of Food and Drugs by the Secretary of Health, Education, and Welfare (22 F.R. 1045, 23 F.R. 9500), notice is hereby given that no objections meeting the requirements set out in section 701(e) of the act were filed to the order published in the FEDERAL REGISTER of July 31, 1959 (24 F.R. 6158). Accordingly, the amendment promulgated by that order is effective on and after September 29, 1959.

(Sec. 701, 52 Stat. 1055, as amended; 21 U.S.C. 371. Interprets or applies sec. 401, 52 Stat. 1046, as amended; 21 U.S.C. 341)

Dated: September 11, 1959.

[SEAL] JOHN L. HARVEY,
Deputy Commissioner of Food and Drugs.

[F.R. Doc. 59–7759; Filed, Sept. 17, 1959; 8:46 a.m.]

Title 31—MONEY AND FINANCE: TREASURY

Chapter II—Fiscal Service, Department of the Treasury

SUBCHAPTER C—OFFICE OF THE TREASURER OF THE UNITED STATES

PART 361—DISTRIBUTION OF UNCIRCULATED COINS FOR COLLECTION PURPOSES

Part 361, Subchapter C, Chapter II, Title 31, of the Code of Federal Regulations of the United States, is hereby revised effective January 1, 1960, to read as follows:

§ 361.0 Distribution of sets of uncirculated coins.

The Treasurer of the United States is authorized to furnish during each calendar year, to persons applying therefor, sets of uncirculated coins minted during the preceding year upon receipt of an amount equal to the face value of the coins included in each set and the charges described below. These sets will consist ordinarily of one of each of the coins, other than commemorative and proof coins, struck at each of the coinage mints during the preceding year. The Treasurer of the United States, with the approval of the Secretary of the Treasury, shall prescribe a fee for each set of uncirculated coins, such fee to be based, insofar as practical, upon the estimated direct and indirect cost to the Government of the special work involved in assembling, packaging, handling, arranging for delivery, etc., in supplying sets of uncirculated coins. Each person who applies for sets of uncirculated coins shall pay the postage or other transportation expenses incidental to their delivery and shall deliver to the Treasurer with the application an amount equal to the face value of the coins included in each set, the amount of the handling fee, and the amount of the postage or other transportation expenses incidental to their delivery. No more than eighty sets of uncirculated coins will be furnished for each order, subject to the right of the Treasurer to limit quantities to be furnished any one applicant in order to assure an equitable distribution of the available supply of the coins. The right is reserved to discontinue the sale of sets of uncirculated coins without notice. Further information relative to the distribution of sets of uncirculated coins may be obtained by addressing the Treasurer of the United States, Cash Division, Washington 25, D.C.

(R.S. 161, 65 Stat. 290; 5 U.S.C. 22, 5 U.S.C. 140)

Dated: September 14, 1959.

[SEAL] JULIAN B. BAIRD,
Acting Secretary of the Treasury.

[F.R. Doc. 59-7782; Filed, Sept. 17, 1959; 8:49 a.m.]

Title 32—NATIONAL DEFENSE

Chapter VI—Department of the Navy

SUBCHAPTER C—PERSONNEL

PART 716—DEATH GRATUITY

Part 716 is revised to read as follows:

Subpart A—Provisions Applicable to the Navy and the Marine Corps

Sec.
716.1 Principal rule.
716.2 Definitions.
716.3 Special situations.
716.4 Eligible survivors.
716.5 Delegation of authority.
716.6 Death occurring after active service.
716.7 Payment of the death gratuity.
716.8 Payments excluded.
716.9 Erroneous payment.

Subpart B—Provisions Applicable to the Navy

716.10 Procedures.

Subpart C—Provisions Applicable to the Marine Corps

716.11 Procedures.

AUTHORITY: §§ 716.1 to 716.11 issued under R.S. 161; 5 U.S.C. 22. Interpret or apply sec. 1(32)(A), 72 Stat. 1452; 10 U.S.C. 1475–1480.

Subpart A—Provisions Applicable to the Navy and the Marine Corps

§ 716.1 Principal rule.

Under Title 10, U.S. Code, section 1475, the Secretary of the Navy shall have a death gratuity paid immediately upon official notification of the death of a member of the naval service who dies while on active duty, active duty for training, or inactive duty training. The death gratuity shall equal six months' basic pay (plus special, incentive, and proficiency pay) at the rate to which the deceased member was entitled on the date of his death but shall not be less than $800 nor more than $3,000. A kind of special pay included is the 25% increase in pay to which a member serving on a naval vessel in foreign waters is entitled under 10 U.S.C. 5540 when retained beyond expiration of enlistment because such retention was essential to the public interest.

§ 716.2 Definitions.

For the purposes of this part, terms are defined as follows:

(a) *Member of the naval service.* This term includes:

(1) A person appointed, enlisted, or inducted into the Regular Navy, Regular Marine Corps, Naval Reserve or Marine Corps Reserve, and includes a midshipman at the United States Naval Academy;

(2) Enlisted members of the Fleet Reserve and Fleet Marine Corps Reserve and retired members;

(3) A member of the Naval Reserve Officers Training Corps when ordered to annual training duty for 14 days or more, and while performing authorized travel to and from that duty; and

(4) Any person while en route to or from, or at a place for final acceptance for entry upon active duty in the naval service who has been ordered or directed to go to that place, and who

(i) Has been provisionally accepted for such duty; or

(ii) Has been selected, under the Universal Military Training and Service Act (50 U.S.C. App. 451 et seq.), for active naval service.

(b) *Active duty.* This term is defined as (1) full-time duty performed by a member of the naval service, other than active duty for training, or (2) as a midshipman at the United States Naval Academy, and (3) authorized travel to or from such duty or service.

(c) *Active duty for training.* Such term means:

(1) Full-time duty performed by a member of a Reserve component of the naval service for training purposes;

(2) Annual training duty performed for a period of 14 days or more by a member of the Naval Reserve Officers Training Corps; and

(3) Authorized travel to or from such duty.

(d) *Inactive-duty training.* Such term is defined as any of the training, instruction, appropriate duties, or equivalent training, instruction, duty, appropriate duties, or hazardous duty performed with or without compensation by a member of a Reserve component prescribed by the Secretary of the Navy pursuant to section 501 of the Career Compensation Act of 1949 (37 U.S.C. 301) or any other provision of law. The term does not include:

(1) Work or study performed by a member of a Reserve component in connection with correspondence courses in which he is enrolled, or

(2) Attendance at an educational institution in an inactive status under the sponsorship of the Navy or Marine Corps.

§ 716.3 Special situations.

(a) *Service without pay.* Any member of a Reserve component who performs active duty, active duty for training, or inactive-duty training without pay shall, for purposes of a death gratuity payment, be considered as being entitled to basic pay while performing such duties.

(b) *Death occurring while traveling to and from active duty for training and inactive-duty training.* Any member of a Reserve component who, when authorized or required by competent authority, assumes an obligation to perform active duty for training or inactive-duty training and who dies from an injury incurred on or after January 1, 1957 while proceeding directly to or directly from such active duty for training or inactive-duty training, shall be deemed to have been on active duty for training or inactive-duty training, as the case may be.

(c) *Hospitalization.* A member of a Reserve component who suffers disability while on active duty, active duty for training, or inactive-duty training, and who is placed in a pay status while he is receiving hospitalization or medical care (including out-patient care) for such disability, shall be deemed, for purposes

of death gratuity payment to have continued on active duty, active duty for training, or inactive-duty training, as the case may be, in the event of his death in such status.

(d) *Discharge or release from a period of active duty.* A person who is discharged or released from active duty (other than for training) is considered to continue on that duty during the period of time required for that person to go to his home by the most direct route. That period may not end before midnight of the day on which the member is discharged or released.

§ 716.4 Eligible survivors.

(a) The death gratuity shall be paid to or for the living survivor or survivors of the deceased member first listed below:

(1) The lawful spouse. (For purpose of this part, a man or woman shall be considered to be the spouse if legally married to the member at the time of the member's death.)

(2) His children (without regard to their age or marital status) in equal shares.

(3) Parent(s), brother(s) or sister(s) or any combination of them, when designated by the deceased member.

(4) Undesignated parents in equal shares.

(5) Undesignated brothers and sisters in equal shares.

In subparagraphs (2), (3) and (4), respectively, of this paragraph, the terms "child" and "parent" have the meanings assigned to them by Title 10, U.S. Code, section 1477 and the term "parents" includes persons in loco parentis as indicated by that section. The terms "brother" and "sister" in subparagraphs (3) and (5) of this paragraph include brothers and sisters of the half blood and those through adoption.

(b) *Designation of payee by service member.* Where the service member has designated a beneficiary and is not survived by a spouse, child, or children, the payment will be made to the specific person designated by him provided the designee falls within the class of beneficiaries permitted as set forth in paragraph (a)(3) of this section. If more than one person is so designated on the Record of Emergency Data, DD Form 93–1 (Rev., Dec. 1, 1956) or subsequent revisions thereof, payment will be made in equal shares unless the member designated a proportionate share to each beneficiary. Frivolous designations, such as one per centum to a particular beneficiary, should not be made.

(c) *Death of survivor prior to receipt of gratuity.* (1) If a survivor dies before receiving payment, or if a designated beneficiary predeceases the member (and there is no other designated beneficiary) such amount shall be paid to the then living survivor or survivors listed first under paragraph (a) of this section.

(2) In case one of the beneficiaries (parents or brothers or sisters) designated by a member, pursuant to paragraph (a)(3) of this section, to receive death gratuity payment dies prior to the member's death, or after his death but prior to the time payment is made, the share which would have been paid to the deceased designee may be paid to the other person or persons designated.

§ 716.5 Delegation of authority.

(a) Pursuant to the authority contained in Title 10, U.S. Code, section 1479, as to deaths described in section 1475 thereof, the Secretary of the Navy has delegated to commanding officers of naval commands, installations, or districts, with respect to naval personnel, and to Marine Corps commanding generals and officers in command of regiments, battalions or equivalent units and of separate or detached commands who have custody of service records, with respect to Marine Corps personnel, authority to certify for the payment of death gratuity the lawful spouse or designated beneficiary(ies) of the deceased service member who was residing with him at or near his place of duty at the time of his death, except in cases in which a doubt may exist as to the identity of the legal beneficiary. Disbursing officers are authorized to make payment of the death gratuity upon receipt of certification from the Commanding Officer.

(b) The Secretary of the Navy has delegated authority to the Chief of Naval Personnel as to naval personnel, and to the Commandant of the Marine Corps (Code DN) as to Marine Corps personnel, the authority to certify the beneficiary(ies) for receipt of payment of death gratuity in all appropriate cases of payment of death gratuity under the Servicemen's and Veterans' Survivor Benefits Act (now reenacted in 10 U.S.C. 1475–1480), including, but not limited to: (1) Cases in which a doubt may exist as to the identity of the legal beneficiary; and (2) cases in which the widow or designated beneficiary(ies) of the deceased service member was not residing with him at or near his place of duty at the time of his death.

§ 716.6 Death occurring after active service.

(a) Under Title 10, U.S. Code, section 1476, the death gratuity will be paid in any case where a member or former member dies on or after January 1, 1957, during the 120-day period which begins on the day following the date of his discharge or release from active duty, active duty for training, on inactive duty training, if the Administrator of Veterans' Affairs determines that

(1) the decedent was discharged or released, as the case may be, from the service under conditions ohter than dishonorable from the last period of the duty or training performed; and

(2) death resulted from disease or injury incurred or aggravated while on such active duty or active duty for training; or while performing authorized travel to or from such duty; or

(3) death resulted from injury incurred or aggravated while on such inactive-duty training or while traveling directly to or from such duty or training.

(b) For purposes of computing the amount of the death gratuity in such instances, the deceased person shall be deemed to be entitled on the date of his death to basic pay (plus any special, incentive and proficiency pay) at the rate to which he was entitled on the last day he performed such active duty, active duty for training, or inactive duty training. A kind of special pay included is a pay increase under 10 U.S.C. 5540; see § 716.1.

(c) The Department of the Navy is precluded from making payment of the death gratuity pending receipt of the determinations described in paragraph (a) of this section. In view of this, commands should insure that the medical records and reports of investigations by fact-finding bodies be submitted to the Navy Department at the earliest possible date. The Veterans' Administration is promptly notified of all deaths of this category reported, and upon the request of that agency all pertinent data is forwarded.

§ 716.7 Payment of the death gratuity.

(a) *Claim certification and voucher for the death gratuity payment.* The Comptroller General of the United States has approved DD Form 397 as the form to be used hereafter for claim certification and voucher for the death gratuity payment.

(b) *Active duty deaths.* To effect immediate payment of death gratuity the following actions will be taken:

(1) The commanding officer will ascertain that the deceased member died while on active duty, active duty for training, or inactive-duty training, and will obtain the name, relationship, and address of the eligible survivor from the Service Record of the deceased. The Record of Emergency Data, DD Form 93–1, will normally contain this information. In addition, in the case of enlisted personnel, the Application for Dependents Allowance (BAQ [Basic Allowance for Quarters]), NAVPERS Form 668, may serve as a source of corroboration. He will, with the cooperation of the disbursing officer, initiate preparation of a Claim Certification and Voucher for Death Gratuity Payment, DD Form 397, in original and five copies, completing blocks 5 through 14 inclusive, and the administrative statement in block 18. The administrative statement in block 18 will be signed by the commanding officer or acting commanding officer.

(2) The disbursing officer will, upon receipt of the DD Form 397, draw a check to the order of the eligible survivor named in block 5, complete blocks 2, 3, 4, and the check payment data portion of block 18.

(3) Under arrangements made by the commanding officer, the check and the original and one copy of the voucher, DD Form 397, will be delivered to the payee. The payee will be required to complete block 15, sign in block 17a, and have two witnesses complete block 17 on the original voucher at the time the check is delivered. Under no circumstances will the check be delivered to the payee until this action has been accomplished. The payee will retain the copy of the voucher, DD Form 397, and the signed original voucher will be returned by hand to the disbursing officer by the person designated to deliver the check.

§ 716.8 Payments excluded.

(a) No payment shall be made if the deceased member suffered death as a result of lawful punishment for a crime or for a military or naval offense, except when death was so inflicted by any hostile force with which the Armed Forces of the United States have engaged in armed conflict.

(b) No payment will be made to a survivor implicated in the homicide of the deceased in the absence of evidence clearly absolving such survivor.

(c) A death gratuity of more than $1,000 must not be paid in whole or in part to a parent as natural guardian of a minor. If a minor is entitled to a death gratuity of more than $1,000 it may be paid only to a legal guardian.

§ 716.9 Erroneous Payment.

Where through administrative mistake of fact or law, payment of the death gratuity is made to a person clearly not entitled thereto, and it is equally clear that another person is entitled to the death gratuity, the Chief of Naval Personnel (Pers–G23) or the Commandant of the Marine Corps (Code DN), as appropriate, will certify payment to the proper payee, irrespective of recovery of the erroneous payment. On the other hand, where a payment of the death gratuity has been made to an individual on the basis of representations of record made by the deceased member as to his marital and dependency status, and the Government otherwise has no information which would give rise to doubt that such status is as represented, the payment is not to be regarded as "erroneous." The Government has a good acquittance in such cases even though it may subsequently develop that the payee is not the proper statutory payee of the gratuity and no second payment is authorized.

Subpart B—Provisions Applicable to the Navy

§ 716.10 Procedures.

(a) *Action by commanding officers.* See § 716.7(b).

(1) *Immediate payment—Eligible beneficiary residing with deceased member.* Commanding officers, in order to expedite the payment of the death gratuity, will, upon official notification of death, ascertain the duty status of the deceased, and determine the eligibility of the spouse or designated beneficiary who was residing with the deceased member on or near his duty station at the time of his death. The services of a staff or district legal officer will be utilized as required. Every effort should be made to effect prompt payment (within 24 hours, if possible). It is the intent that determinations of entitlement by commands in the field will be confined largely to spouses and parents designated by the service member who were living with him at the time of his death.

(2) *Questionable cases.* If entitlement to the death gratuity payment is questionable after seeking advice of the staff or district legal officer, such case will be forwarded promptly to the Chief of Naval Personnel (Pers–G23) with a brief statement relative to the facts which raised the issue of doubt. Every effort will be made to expedite action by a review of the official records of the decedent in the Bureau of Naval Personnel and the Family Allowance Activity at Cleveland, Ohio. Those cases wherein the service member was in a deserter status, absent without leave, or in the custody of civil authorities at the time of death, wherein guardianship must be provided for the protection of the decedent's children, or wherein a technicality exists which makes immediate certification legally unsound, will be considered questionable.

(3) *Exception.* Where the entitlement of the survivor who is living with the deceased at the time of his death is questionable and such survivor is in dire financial circumstances, the Chief of Naval Personnel (Pers–G23) shall be requested by message to make an adjudication of entitlement. If it is determined that the survivor is entitled to the payment, the commanding officer will be authorized by message to execute DD Form 397.

(b) *Action by Casualty Assistance Calls Program (CACP) officers; Potential beneficiary not residing with member*—(1) *Widow.* The CACP officer will, on his initial visit to a widow, obtain execution of the voucher (see § 716.7 (b)(3)) if propriety admits. If the execution of the voucher cannot be obtained on the initial call, then it should be accomplished on the second. The voucher should be forwarded to the Chief of Naval Personnel (Pers–G23) for action. It should be noted that the following procedure is confined to cases where the decedent's eligible survivor for the death gratuity is the widow, in an effort to effect immediate payment in accordance with the intent of the governing statute. The CACP officer, upon learning that a widow, not residing with her husband on or near his duty station, is in urgent need of financial assistance, shall advise the Chief of Naval Personnel (Pers–G23) of the need by message. He shall send a copy of this message to the decedent's duty station, if known. Upon receipt, the disbursing officer will furnish the Navy Finance Center, Cleveland 14, Ohio, the decedent's basic monthly pay (plus any special (see § 716.1), incentive, and proficiency pay) in the event the pay account has not been forwarded already to that center sufficiently early to have reached there. The CACP officer shall send a copy of his message also to the Navy Finance Center with the request that payment of the death gratuity be made upon receipt of the certification of beneficiary entitlement from the Chief of Naval Personnel (Pers–G23).

(2) *Navy Relief.* In cases where there is immediate need prior to receipt of the death gratuity, the Navy Relief Society will be contacted by the Casualty Assistance Calls Program officer.

(c) *Action by the Chief of Naval Personnel.* (1) In all cases where death gratuity is not authorized to be paid locally and in cases where authority exists to pay locally but entitlement is questionable (see paragraph (a)(2) of this section), the Chief of Naval Personnel (Pers-G23) will expedite adjudication of claims. As indicated in paragraph (b)(1) of this section CACP officers will refer cases of urgent financial need to the Chief of Naval Personnel (Pers–G23) by message for action.

(2) If a minor is entitled to a death gratuity under 10 U.S.C. 1477 not exceeding $1,000, such death gratuity may be paid to the father or mother as natural guardian on behalf of the minor, provided a legally appointed guardian has not been appointed, upon substantiation by a sworn (notarized) statement of the natural guardian:

(i) That no legal guardian has been appointed and that such an appointment is not contemplated;

(ii) The relationship of the natural guardian to the minor;

(iii) That the minor is in the actual custody of the natural guardian;

(iv) That an amount paid to the natural guardian will be held for, or applied to, the use and benefit of the minor.

If the death gratuity to which a minor is entitled exceeds $1,000, the appointment of a legal guardian on behalf of the minor is requested. Certification of the minor eligible to receive the death gratuity is made by the Chief of Naval Personnel (Pers–G23) and payment is effected by the Navy Finance Center, Clevelan 14, Ohio, upon issuance of the certificate of settlement by the General Accounting Office.

(d) *Cross-servicing procedure.* Payment of the death gratuity may be made by a disbursing officer who is maintaining the pay record of a member of another service, provided the command to which the member is attached and which maintains his service record is in the immediate vicinity and certificates the beneficiary eligible to receive payment on the proper voucher (DD Form 397). Otherwise the pay record will be sent to the Army Finance Center, Air Force Finance Center, Commandant of the Marine Corps (Code CDB), the Navy Finance Center, or the Commandant, U.S. Coast Guard, as appropriate.

Subpart C—Provisions Applicable to the Marine Corps

§ 716.11 Procedures.

(a) *Action.* Commanding officers will direct immediate payment of the gratuity where the deceased member's spouse was, in fact, residing with the member on or near the station of duty at the time of the member's death while on active duty, active duty for training, or inactive-duty training. Every effort should be made to effect such payment promptly (within 24 hours, if possible). In cases where the eligible survivor residing with the member on or near the duty station is other than a spouse, commanding officers may direct the payment of death gratuity when the case can be properly determined, and an urgent need exists for immediate payment. Proper determination is imperative.

(b) *Qualifications.* (1) Where any doubt exists as to the legal recipient of the gratuity, the case will be referred to the Commandant of the Marine Corps

(Code DN) for determination. See paragraph (c) (3) of this section.

(2) Where a member dies while being regularly paid by a service other than his own, under existing cross-servicing procedures, the death gratuity may be paid by the service having custody of the pay record of the deceased member, but only on the basis of information obtained by message verification from the commanding officer having custody of the service record of the deceased. See paragraph (c) (2) of this section.

(c) *Instructions concerning active duty deaths*—(1) *Ordinary procedure.* See § 716.7(b).

(2) *Procedure for emergency payments for personnel separated from Service Record Books and Officer's Qualification Record.* When the commanding officer having custody of the service record of a deceased member is not located at the station which holds the pay record of the deceased, and the spouse was residing with the member at the latter station at the time of the member's death, immediate payment of the gratuity may be effected in the following manner:

(i) The command holding the pay record will submit a message request to the commanding officer having custody of the service record for authority to pay death gratuity to the spouse, citing Marine Corps Order 1740.5A as the reference.

(ii) Upon verification of the name and relationship of the spouse from the service record of the deceased member, the commanding officer will, by message, direct the payment of death gratuity to the spouse.

(iii) The Commandant of the Marine Corps (Code DN) will be an information addressee on each message submitted in accordance with the instructions in this subparagraph.

(3) *Doubtful cases.* As a rule, the commanding officer's determination of entitlement to the gratuity payment will be confined largely to spouses residing with the member on or near the station. No report for these purposes is required if the spouse or other beneficiary was not residing with the member. Action to effect payment of death gratuity in these cases will be instituted by the Commandant of he Marine Corps (Code DN). However, in those cases where the survivor was residing with the member on or near the station and there is any doubt as to the legal recipient of the gratuity, the commanding officer shall so notify the Commandant of the Marine Corps (Code DN) by message, furnishing the following information:

(i) Name, grade, service number, and component of the deceased member. If reserve, duty status will be included.

(ii) Date, hour, place, and immediate cause of death.

(iii) Rate of pay including any special, incentive and proficiency pays. (See § 716.1.)

(iv) Name, address, and relationship of survivor and/or designated death gratuity beneficiary.

By direction of the Secretary of the Navy.

[SEAL] CHESTER WARD,
Rear Admiral U.S. Navy,
Judge Advocate General of the Navy.

SEPTEMBER 14, 1959.

[F.R. Doc. 59-7806; Filed, Sept. 17, 1959; 8:51 a.m.]

Chapter XVII—Office of Civil and Defense Mobilization

PART 1713—REIMBURSEMENT TOWARD EXPENSES OF STUDENTS ATTENDING OCDM SCHOOLS

Sec.
1713.1 Purpose.
1713.2 Definitions.
1713.3 Request for reimbursement.
1713.4 Conditions of reimbursement.
1713.5 Amount of reimbursement.
1713.6 Approval of reimbursement request.
1713.7 Payment.
1713.8 Advance of Federal funds.
1713.9 Effective date.

AUTHORITY: §§ 1713.1 to 1713.9 issued under secs. 201(e) and 401, Federal Civil Defense Act of 1950, as amended, 50 U.S.C. 2253; Reorganization Plan No. 1 of 1958, 23 F.R. 4991, as amended by Public Law 85-763, 72 Stat. 861; and E.O. 10773 of July 1, 1958, 23 F.R. 5061, as amended by E.O. 10782 of September 6, 1958, 23 F.R. 6971.

§ 1713.1 Purpose.

The regulations in this part prescribe the basic requirements, conditions, and procedures for Federal reimbursement, under section 201(e) of the Federal Civil Defense Act of 1950, as amended, toward expenses of students attending OCDM schools.

§ 1713.2 Definitions.

Except as otherwise stated, the following terms shall have the following meanings when used in the regulations in this part:

(a) *State.* Any of the several States, District of Columbia, or one of the Territories or possessions of the United States, exclusive of the Panama Canal Zone.

(b) *OCDM schools.* Those schools operated by OCDM pursuant to section 201(e) of the Federal Civil Defense Act of 1950, as amended.

(c) *Student.* One who has been approved by OCDM for attendance at an OCDM school course and who registers for that course.

(d) *Student expenses.* Cost of travel from place of residence to an OCDM school and return, and per diem allowances in lieu of subsistence while in travel status and while in attendance at such school, to be reimbursed in accordance with terms and conditions prescribed by the Director, OCDM, and not exceeding the standards or payments prescribed or authorized under Standardized Government Travel Regulations and the Travel Expense Act of 1949, as amended.

(e) *Course.* An organized and directed study of a defined subject offered at an OCDM school and designated by OCDM as acceptable for reimbursement purposes.

§ 1713.3 Request for reimbursement.

A request for Federal reimbursement for student expenses must be made on Form OCDM 175, "Request for Reimbursement for Attendance at OCDM Schools," in accordance with the procedures and criteria outlined in the OCDM Administrative Manual AM25-3, "Federal Reimbursement for Expenses of Students Attending OCDM Schools." The request for reimbursement shall be signed by the applicant and approved by the State civil defense director or such other State official as shall be duly authorized. In the latter case, such officer's authorization shall be on file with OCDM.

§ 1713.4 Conditions of reimbursement.

Reimbursements toward student expenses shall be subject to the following conditions:

(a) The State's approval of an applicant's request for reimbursement by the Federal Government shall constitute a certification by the State (and the political subdivision, if applicable) that the training applied for is necessary for the planned use to be made of the applicant in the civil defense plans for the State or a political subdivision thereof; and that the State (and political subdivision, if applicable) has complied with OCDM regulations, manuals, and other OCDM administrative issuances applicable to this program.

(b) The applicant to whom reimbursement toward student expenses is to be made shall certify, in his application for reimbursement, his agreement to participate to the best of his ability in civil defense activities in accordance with agreements between himself and the State, and, if applicable, between himself and a political subdivision of the State.

(c) No reimbursement shall be made to any student who does not have a satisfactory attendance at the OCDM school course for which reimbursement has been requested and approved.

(d) Prior to making reimbursement, the OCDM shall require that the student take and sign an oath of the character and in the manner provided for in subsection 403(b) of the Federal Civil Defense Act of 1950, as amended.

§ 1713.5 Amount of reimbursement.

Federal reimbursement toward student expenses for each student shall not exceed one-half of the total thereof. Expenses which would otherwise qualify for reimbursement under this program shall, to the extent they qualify for Federal reimbursement under any other program, be ineligible.

§ 1713.6 Approval of reimbursement requests.

(a) If a request for reimbursement is approved by OCDM, the State approving the request and the applicant shall be so notified by OCDM.

(b) If a request for reimbursement is disapproved by OCDM, the request shall be returned to the State approving the request with a brief statement of the reason for such disapproval.

§ 1713.7 Payment.

(a) Any Federal reimbursement toward student expenses is to be made to the student shown on the request approved by the State and by OCDM.

(b) When attendance requirement has been met by a student approved for reimbursement of expenses, OCDM shall make payment to him either in cash or by check drawn against the Treasury of the United States; such payment shall be based on receipt of proper billing to OCDM submitted by the student.

§ 1713.8 Advance of Federal funds.

No advance of Federal funds will be made for reimbursement toward student expenses.

§ 1713.9 Effective date.

The regulations in this part shall become effective upon publication in the FEDERAL REGISTER and shall terminate not later than June 30, 1964.

Dated: September 15, 1959.

LEO A. HOEGH,
Director.

[F.R. Doc. 59-7778; Filed, Sept. 17, 1959; 8:48 a.m.]

Title 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

SUBCHAPTER U—STATE AND RAILROAD GRANTS

[Circular 2024]

PART 270—STATE GRANTS FOR EDUCATIONAL, INSTITUTIONAL, AND PARK PURPOSES

Indemnity Selections; Quantity and Special Grant Selections

On pages 2834 and 2835 of the FEDERAL REGISTER of April 14, 1959, there was published a notice of proposed rule making to revise the regulations relating to land grants to States other than Alaska. Interested persons were given 30 days in which to submit written comments, suggestions, or objections with respect to the proposed regulations.

No objections have been received, but comments submitted indicate that:

1. Subparagraph (3) of paragraph (c) of § 270.3 should be revised to read "(3) A statement describing the mineral or nonmineral character of each smallest legal subdivision of the base and selected lands." and

2. That portion of paragraph (b) of § 270.9 which reads "by a qualified party, having personal knowledge of the land, testifying to the nonmineral character of the selected lands;" should be revised to read "testifying to the nonmineral character of each smallest legal subdivision of the selected land;."

The proposed regulations are hereby adopted with the above-mentioned revisions and are set forth below. This amendment shall become effective on the date of its publication in the FEDERAL REGISTER.

ELMER F. BENNETT,
Acting Secretary of the Interior.

SEPTEMBER 11, 1959.

[F.R. Doc. 59-7761; Filed, Sept. 17, 1959; 8:47 a.m.]

Sections 270.1 through 270.22a are revoked and the following issued in lieu thereof:

INDEMNITY SELECTIONS

§ 270.1 Statutory authority.

(a) Sections 2275 and 2276 of the Revised Statutes, as amended August 27, 1958 (43 U.S.C. 851, 852), referred to in §§ 270.1 to 270.6 as "the law," authorize the public land States except Alaska to select lands of equal acreage within their boundaries as indemnity for grant lands in place lost to the States because of appropriation prior to survey or because of natural deficiencies resulting from such causes as fractional sections and fractional townships.

(b) The law provides that idemnity for lands lost because of natural deficiencies will be selected from the unappropriated, nonmineral, surveyed public lands, and that indemnity for lands lost because of appropriation prior to survey will be selected from the unappropriated, surveyed public lands subject to the following restrictions:

(1) No lands mineral in character may be selected except to the extent that the selection is made as indemnity for mineral lands.

(2) No lands on a known geologic structure of a producing oil or gas field may be selected except to the extent that the selection is made as indemnity for lands on such a structure.

(c) The law also provides that lands subject to a mineral lease or permit may be selected, but only if the lands are otherwise available for selection, if all the lands subject to that lease or permit are selected, and if none of the lands subject to that lease or permit are in a producing or producible status. It permits the selection of lands withdrawn, classified, or reported as valuable for coal, phosphate, nitrate, potash, oil, gas, asphaltic minerals, oil shale, sodium, and sulphur and lands withdrawn by Executive Order No. 5327 of April 15, 1930, if such lands are otherwise available for, and subject to, selection, provided that, except where the base lands are mineral in character, such minerals are reserved to the United States in accordance with and subject to the regulations in Part 102 of this chapter. Except for the withdrawals mentioned in this paragraph and for lands subject to classification under section 7 of the Taylor Grazing Act of June 28, 1934 (48 Stat. 1269; 43 U.S.C. 315f), as amended, the law does not permit the selection of withdrawn or reserved lands.

(d) The law further provides that upon the revocation not later than 10 years after August 27, 1958, of any order of withdrawal, in whole or in part, the order or notice taking such action shall provide for a period of not less than six months before the date on which it otherwise becomes effective in which the State in which the lands are situated shall have a preferred right of application for selection under the law, except as against prior existing valid settlement and preference rights conferred by existing law other than the Act of September 27, 1944 (58 Stat. 748; 43 U.S.C. 282), as amended, or as against equitable claims subject to allowance and confirmation, and except where a revocation of an order of withdrawal is made in order to assist in a Federal land program.

(e) Subsection (b) of the section 2276 of the Revised Statutes, as amended, sets forth the principles of adjustment where selections are made to compensate for deficiencies of school lands in fractional townships.

§ 270.2 Waiver of State preference right of application.

Where the proper selecting agent of the State files in writing in the appropriate land office a waiver of the preference provisions of paragraph (d) of § 270.1 in connection with the proposed revocation of an order of withdrawal, the order or notice effecting such revocation will not provide for such preference.

§ 270.3 Applications for selection.

(a) An application for selection will be considered as a petition for classification of the land under section 7 of the Taylor Grazing Act, as amended, in the manner prescribed by Part 296 of this chapter.

(b) Applications for selection of lands under the law will be made by the proper selecting agent of the State and will be filed, in duplicate, in the proper land office in the State or for lands in a State in which there is no land office, will be filed with the Bureau of Land Management, Washington 25, D.C., except that applications for lands in North Dakota or South Dakota shall be filed in the land office at Billings, Montana, applications for lands in Kansas or Nebraska shall be filed in the land office at Cheyenne, Wyoming, and for lands in Oklahoma in the land office at Santa Fe, New Mexico.

(c) No special form of application is required but it must be typewritten and must contain, or be accompanied by, the following information:

(1) A reference to the Act of August 27, 1958 (72 Stat. 928).

(2) A certificate by the selecting agent showing

(i) That the selection is made under and pursuant to the laws of the State.

(ii) His official title and his authority to make the selection in behalf of the State.

(iii) That no portion of the selected land is occupied for any purpose by the United States and that the land is unoccupied, unimproved, and unappropriated by any person claiming the land other than the applicant.

(iv) All facts relative to medicinal or hot springs or other waters upon the selected lands.

(v) That indemnity has not been previously granted for the assigned base lands and that no other selection is pending for such assigned base.

(3) A statement describing the mineral or nonmineral character of each smallest legal subdivision of the base and selected lands.

(4) A certificate by the officer or officers charged with the care and disposal of school lands that no instrument purporting to convey, or in any way incumber, the title to any of the land used as base or bases, has been issued by the State or its agents.

(d) In addition to the requirements of paragraph (c) of this section, applications for selection must conform with the following rules:

(1) The selected and base lands must be described in accordance with the official plats of survey except that unsurveyed base lands will be described in terms of their probable legal description, if and when surveyed in accordance with the rectangular system of surveys.

(2) The selection in any one application must not exceed 640 acres.

(3) Separate base or bases must be assigned to each smallest legal subdivision of selected land and such base or bases must correspond in area with each subdivision. A portion of a smallest actual or probable legal subdivision may be assigned as base but such assignment is an election to take indemnity for the entire subdivision and is a waiver of the State's rights to such subdivision, except that any remaining balance may be used as base for future selections.

(4) The cause of loss of the base lands to the State must be specifically stated for each separate base.

(e) Applications for selection must be accompanied by a fee of $2 for each 160 acres, or fraction thereof, except that applications by the States of Arizona and New Mexico must be accompanied by a fee of $1 for each 160 acres, or fraction thereof. The fee will be retained by the Government only to the extent that the selections are approved.

§ 270.4 Publication and protests.

(a) The State will be required to publish once a week for five consecutive weeks in accordance with § 106.14 of this chapter, at its own expense, in a designated newspaper and in a designated form, a notice allowing all persons claiming the land adversely to file in the appropriate office their objections to the issuance of a certification to the State for lands selected under the law. A protestant must serve on the State a copy of the objections and furnish evidence of service to the appropriate land office.

(b) The State must file a statement of the publisher, accompanied by a copy of the notice published, showing that publication has been had for the required time.

§ 270.5 Certifications; mineral leases and permits.

(a) Certifications will be issued for all selections approved under the law by the authorized officer of the Bureau of Land Management.

(b) Where lands subject to a mineral lease or permit are certified to a State, the State shall succeed to the position of the United States thereunder.

§ 270.6 Appeals.

An appeal pursuant to the rules of practice, Part 221 of this chapter, may be taken from the decision of the authorized officer of the Bureau of Land Management.

QUANTITY AND SPECIAL GRANT SELECTIONS

§ 270.7 Scope of regulations.

Sections 270.7 to 270.9 apply generally to quantity and special grants made to States other than Alaska.

§ 270.8 Lands subject to selection.

Selections made in satisfaction of quantity and special grants can generally be made only from the vacant, unappropriated, nonmineral, surveyed public lands within the State to which the grant was made. If the lands are otherwise available for selection, the States may select lands which are withdrawn, classified, or reported as valuable for coal, phosphate, nitrate, potash, oil, gas, asphaltic minerals, sodium, or sulphur, provided that the appropriate minerals are reserved to the United States in accordance with and subject to the regulations of Part 102 of this chapter.

§ 270.9 Applicable regulations.

The regulations in §§ 270.3 to 270.6 apply to quantity and special grants with the following exceptions and modifications:

(a) Section 270.5(b) and §§ 270.3(c)(4), 270.3(d)(3), and 270.3(d)(4), and all references to base lands, do not apply.

(b) Section 270.3(c)(1) is modified to require reference to the appropriate granting act; § 270.3(c)(3) is modified to require a statement testifying to the nonmineral character of each smallest legal subdivision of the selected land; § 270.3(d)(2) is modified to permit as much of 6,400 acres in a single selection; § 270.3(e) is modified to be consistent with § 216.14 of this chapter; and § 270.3(c)(2)(v) is modified to require a certificate that the selection and those pending, together with those approved, do not exceed the total amount granted for the stated purpose of the grant.

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 1978]

[Idaho 010254]

IDAHO

Reserving Lands for Use of the Bureau of Land Management for the Malad Radio Repeater Station

By virtue of the authority vested in the President, and pursuant to Executive Order No. 10355 of May 26, 1952, it is ordered as follows:

Subject to valid existing rights, the following-described public lands in Idaho are hereby withdrawn from all forms of appropriation under the public land laws, including the mining and mineral leasing laws, and disposals of materials under the act of July 31, 1947 (61 Stat. 681; 30 U.S.C. 601–604), as amended, and reserved for use of the Bureau of Land Management, Department of the Interior, for a radio receiving and transmitting station:

BOISE MERIDIAN

T. 14 S., R. 34 E.,
Sec. 23, S½SW¼NE¼SW¼.

The tract described contains five acres.

ROYCE A. HARDY,
Assistant Secretary of the Interior.

SEPTEMBER 11, 1959.

[F.R. Doc. 59-7763; Filed, Sept. 17, 1959; 8:47 a.m.]

[Public Land Order 1979]

[661403]

COLORADO

Partially Revoking Stock Drivaway Withdrawals Nos. 2 and 8

By virtue of the authority contained in section 10 of the act of December 29, 1916 (39 Stat. 865; 43 U.S.C. 300), as amended, it is ordered as follows:

The departmental orders of October 9, 1917, and January 29, 1918, which established Stock Drivaway Withdrawals Nos. 2 and 8, are hereby revoked so far as they effect the following-described lands:

SIXTH PRINCIPAL MERIDIAN

STOCK DRIVAWAY WITHDRAWAL NO. 8

Pike National Forest

T. 11 S., R. 78 W.,
Sec. 3, lot 1;
Sec. 14, SW¼SW¼;
Sec. 15, S½S½.
Totaling 236.10 acres.

San Isabel National Forest

T. 12 S., R. 79 W.,
Sec. 21, S½.
Totaling 320 acres.

NEW MEXICO PRINCIPAL MERIDIAN

STOCK DRIVAWAY WITHDRAWAL NO. 2

Rio Grande National Forest

T. 39 N., R. 4 E.,
Sec. 4, lot 10, SE¼SE¼.
T. 42 N., R. 5 E.,
Sec. 21, N½, N½S½;
Sec. 22, NW¼, W½NE¼, E½SW¼, W½SE¼, SE¼SE¼;
Sec. 25, S½;
Sec. 26, W½, SE¼;
Sec. 27, N½NE¼.
T. 38 N., R. 6 E.,
Sec. 21, E½SW¼, and SE¼.
T. 41 N., R. 6 E.,
Sec. 4, lots 7, 8, 9, 10, SW¼NE¼, and SE¼NW¼;
Sec. 5, lots 1, 2, 3, SE¼NW¼, S½NE¼, and N½SE¼.
T. 42 N., R. 6 E.,
Sec. 31, lots 5, 6, 7, 8, 9, SW¼NE¼, E½NE¼;
Sec. 32, W½, W½E½.
T. 44 N., R. 6 E.,
Sec. 3, lots 1, 2, 3, 4, S½N½;
Sec. 4, lots 1, 2, 3, S½NE¼, SE¼NW¼, E½SW¼, E½SE¼;
Sec. 8, SW¼SE¼, E½SE¼;
Sec. 9, NW¼SW¼, NW¼;
Sec. 12, All;
Sec. 13, All;
Sec. 24, All.
T. 46 N., R. SE.,
Sec. 1, S½N½.
Totaling 6,634.12 acres.

The areas withdrawn by this order aggregate 7,190.22 acres.

The SW¼NE¼ and SE¼NW¼ of sec. 4, T. 41 N., R. 6 E., has been patented.

At 10:00 a.m. on October 17, 1959, the lands shall be open to such forms of disposition as may by law be made of national forest lands.

They have been open to applications and offers under the mineral-leasing laws, and to location under the United States mining laws pursuant to the regulations in 43 CFR 185.35, 185.36.

ROYCE A. HARDY,
Assistant Secretary of the Interior.

SEPTEMBER 11, 1959.

[F.R. Doc. 59-7764; Filed, Sept. 17, 1959; 8:47 a.m.]

[Public Land Order 1980]

[Fairbanks 023026]

ALASKA

Reserving Lands for Use of the Forest Service for Research Purposes

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952, it is ordered as follows:

Subject to valid existing rights, the following-described public lands in Alaska are hereby withdrawn from all forms of appropriation under the public land laws, including the mining but not the mineral-leasing laws nor the disposal of materials under the act of July 31, 1947 (61 Stat. 681; 30 U.S.C. 601-604), as amended, and reserved for use of the Forest Service, Department of Agriculture as the Shaw Creek Experimental Area in connection with research projects being conducted in furtherance of the act of May 22, 1928 (45 Stat. 699; 16 U.S.C. 581, 581a-581k), as amended:

FAIRBANKS MERIDIAN

T. 7 S., R. SE.,
sec. 27, S½SE¼SE¼;
sec. 34, N½NE¼NE¼.

The areas described contain 40 acres.

ROYCE A. HARDY,
Assistant Secretary of the Interior.

SEPTEMBER 11, 1959.

[F.R. Doc. 59-7765; Filed, Sept. 17, 1959; 8:47 a.m.]

[Public Land Order 1981]

[82516]

OREGON

Power Site Restoration No. 541 Partially Revoking the Executive Order of March 17, 1913, Which Created Power Site Reserve No. 344

By virtue of the authority vested in the President by section 1 of the act of June 25, 1910 (36 Stat. 847; 43 U.S.C. 141) and pursuant to Executive Order No. 10355 of May 26, 1952, it is ordered as follows:

1. The Executive Order of March 17, 1913, which created Power Site Reserve No. 344, is hereby revoked so far as it affects the following-described lands:

WILLAMETTE MERIDIAN

T. 32 S., R. 32½E.
Sec. 8, SE¼SW¼;
Sec. 17, E½W½;
Sec. 18, NE¼SE¼;
Sec. 19, NE¼NE¼;
Sec. 20, NW¼NE¼, SE¼NE¼, NE¼NW¼, SW¼NW¼, E½SW¼, and E½SE¼;
Sec. 28, NW¼NW¼, SE¼NW¼, and W½SW¼;
Sec. 29, NW¼NE¼ and S½NE¼.

The areas described aggregate 880 acres.

2. The State of Oregon has waived the preference right of application granted to it by subsection (c) of section 2 of the act of August 27, 1958 (72 Stat. 928; 43 U.S.C. 851, 852). It has also waived its preference rights under the act of May 28, 1948 (62 Stat. 275; 16 U.S.C. 818).

3. The land lies in southern Harney County, Oregon, approximately 61 miles south of Burns, Oregon. The soil is a coarse sandy loam, with some clay along the river, and is freely mixed with rock and gravel with frequent outcrops of solid rock. Vegetation consists of big sagebrush, western juniper, willow, cottonwood, cheat grass, perennial grasses and forbs.

4. Subject to any valid existing rights and the requirements of applicable law, the lands are hereby opened to filing of applications, selections, and locations in accordance with the following:

a. Applications and selections under the nonmineral public land laws and the regulations in 43 CFR will be received at once by the Manager named below. Priorities in the consideration of such applications will be recognized as follows:

(1) Applications under the Homestead, Desert Land and Small Tract Laws by veterans of World War II and the Korean Conflict, and by others claiming preference under the act of September 27, 1944 (58 Stat. 747; 43 U.S.C. 279-284) as amended, filed at or before 10:00 a.m. on October 17, 1959, shall be considered as simultaneously filed at that time. Rights under such preference right applications after that hour and before 10:00 a.m. on December 12, 1959, will be governed by the time of filing.

(2) All valid applications under the nonmineral public land laws other than those coming under subparagraph (1) above, presented prior to 10:00 a.m. on December 12, 1959, will be considered as simultaneously filed at that hour. Any rights under such applications filed thereafter will be governed by the time of filing.

(3) All applications under subparagraphs (1) and (2) above, shall be subject to those from persons having prior existing valid settlement rights, preference rights conferred by existing law, and equitable claims subject to allowance and confirmation.

b. The lands have been open to applications and offers under the mineral leasing laws, and to location under the mining laws pursuant to the act of August 11, 1955 (69 Stat. 683; 30 U.S.C. 621).

5. Persons claiming preferential consideration must submit evidence of their entitlement.

Inquiries concerning the lands shall be addressed to the Manager, Land Office, Bureau of Land Management, Portland, Oregon.

ROYCE A. HARDY,
Assistant Secretary of the Interior.

SEPTEMBER 11, 1959.

[F.R. Doc. 59-7766; Filed, Sept. 17, 1959; 8:47 a.m.]

Chapter II—Bureau of Reclamation, Department of the Interior

PART 404—COLUMBIA BASIN PROJECT, WASHINGTON

PART 412—PROCEDURES FOR DETERMINING ELIGIBILITY TO RECEIVE WATER, COLUMBIA BASIN PROJECT, WASHINGTON

EDITORIAL NOTE: 1. The heading of Part 404 is changed to read as set forth above, and §§ 404.1 to 404.15 are designated "Subpart A—Delivery of Water."

2. Part 412, appearing at 24 F.R. 6343 (F.R. Doc. 59-6506) is redesignated "Subpart B—Procedures for Determining Eligibility to Receive Water" of Part 404. Section 412.1 is deleted, and §§ 412.2 to 412.23 are redesignated §§ 404.21 to 404.42, respectively.

PROPOSED RULE MAKING

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[43 CFR Part 202]

RIGHTS-OF-WAY FOR PIPE LINES ON THE OUTER CONTINENTAL SHELF

Miscellaneous Amendments

Basis and purpose. Notice is hereby given that pursuant to the authority vested in the Secretary of the Interior by section 5 of the Act of August 7, 1953 (67 Stat. 464; 43 U.S.C. 1334), it is proposed to amend 43 CFR 202.5 and 202.6 (b) and (d), as set forth below. The purpose of these amendments is to provide for the granting of rights-of-way for pipe lines which invade or cross prior granted pipe line rights-of-way without the consent of the prior right-of-way holders.

The proposed amendments relate to matters which are exempt from the rule making requirements of the Administra-

tive Procedures Act (5 U.S.C. 1003); however, it is the policy of the Department of the Interior that, whenever practicable, the rule making requirements be observed voluntarily. Accordingly, interested persons may submit in triplicate written comments, suggestions, or objections with respect to the proposed amendments to the Bureau of Land Management, Washington 25, D.C., within 30 days of the date of publication of this notice in the FEDERAL REGISTER.

ELMER F. BENNETT,
Acting Secretary of the Interior.

SEPTEMBER 11, 1959.

1. Section 202.5 is amended to read as follows:

§ 202.5 Consent of or notice to lessee or right-of-way holder of area crossed or invaded by right-of-way.

An applicant must show the extent to which the right-of-way applied for invades or crosses mineral leases or rights-of-way other than his own and must submit with his application either the written consent of each lessee or right-of-way holder whose lease or right-of-way is so affected or a statement that he has delivered to each lessee or right-of-way holder whose lease or right-of-way is so affected personally or by registered or certified mail a copy of the application and map. If the statement is filed no final action will be taken on the right-of-way application until 15 days have elapsed after the last date of service of such papers, in order to afford the parties concerned ample opportunity to file protests against granting of the right-of-way.

2. Paragraphs (b) and (d) of § 202.6 are amended to read as follows:

§ 202.6 Terms and conditions.

* * * * *

(b) To pay the United States or its lessees or right-of-way holders, as the case may be, the full value for all damages to the property of the United States or its said lessees or right-of-way holders, and to indemnify the United States against any and all liability for damages to life, person, or property arising from the occupation and use of the area covered by the right-of-way.

* * * * *

(d) That the allowance of the right-of-way shall be subject to the express condition that the rights granted will not prevent or interfere in any way with the management, administration of, or the granting either prior or subsequent to the right-of-way grant of other rights by the United States in the submerged lands affected thereby, and that he agrees and consents to the occupancy and use by the United States or its lessees or other right-of-way holders of any part of the right-of-way not actually occupied or necessarily incident to its use for any necessary operations involved in such management, administration or the enjoyment of such other granted rights.

[F.R. Doc. 59-7762; Filed, Sept. 17, 1959; 8:47 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 1027]

[Docket No. AO-312]

MILK IN THE UPPER CHESAPEAKE BAY, MARYLAND, MARKETING AREA

Notice of Recommended Decision and Opportunity To File Written Exceptions With Respect to Proposed Marketing Agreement and Order

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure, governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of the filing with the Hearing Clerk of this recommended decision of the Deputy Administrator, Agricultural Marketing Service, United States Department of Agriculture, with respect to a proposed marketing agreement and order regulating the handling of milk in the Upper Chesapeake Bay, Maryland, marketing area. Interested parties may file written exceptions to this decision with the Hearing Clerk, United States Department of Agriculture, Washington 25, D.C., not later than the close of business the 15th day after publication of this decision in the FEDERAL REGISTER. The exceptions should be filed in quadruplicate.

Preliminary statement. The hearing on the record of which the proposed marketing agreement and order, as hereinafter set forth, were formulated, was conducted at Baltimore, Maryland on February 2–13 and March 9–13, 1959, pursuant to notice thereof which was issued January 14, 1959 (24 F.R. 428). The period until May 25, 1959 was allowed interested parties for the filing of briefs on the record.

The material issues of record relate to:

1. Whether the handling of milk produced for sale in the proposed marketing area is in the current interstate commerce, or directly burdens, obstructs, or affects interstate commerce in milk or its products;

2. Whether marketing conditions show the need for the issuance of a milk marketing agreement or order which will tend to effectuate the policy of the Act; and

3. If an order is issued, what its provisions should be with respect to:

(a) The scope of regulation;

(b) The classification and allocation of milk;

(c) The determination and level of class prices;

(d) The distribution of proceeds to producers; and

(e) Administrative provisions.

Findings and conclusions. Upon the evidence adduced at the hearing and the record thereof, it is hereby found and concluded that:

Character of commerce. The handling of milk in the Upper Chesapeake Bay marketing area (concluded to be a more appropriate name for the marketing area than the name "Baltimore" proposed) is in the current of interstate commerce and directly burdens, obstructs, or affects interstate commerce in the handling of milk and its products.

The production area for the proposed marketing area is largely coextensive with that for the Washington, D.C., market and overlaps that for the Philadelphia, Pennsylvania, New York-New Jersey, and Wilmington, Delaware Federal order markets as well as that for a number of local Pennsylvania markets. Of the 2,457 farms holding permits to supply milk for the city of Baltimore in the month of December 1958, 143 were located outside the State of Maryland. Fifty-three of these farms were in the Commonwealth of Pennsylvania, 66 in the State of West Virginia, 23 in the State of Virginia and one in the State of Delaware.

Dealers operating in the local market receive large quantities of fluid cream and condensed milk from plants located outside the State of Maryland. As of December 1958, 41 out-of-State plants held current permits to ship milk or milk products into the State of Maryland.

It is not possible to determine from the record the specific products which are moved from each of such plants. However, it is apparent that the permits are not restricted. While the principal product has been fluid cream, shipments of whole milk and other products have been made. In addition sour cream, cottage cheese, ice cream and ice cream mixes are regularly disposed of in the local market from out-of-State plants.

Several of the larger dealers doing the principal part of their business in the proposed marketing area operate retail routes extending into the State of Pennsylvania where they regularly compete with dealers whose plants are located in Pennsylvania. A number of Pennsylvania dealers with plants located in Lancaster or York Counties, some of whom receive milk from both Pennsylvania and Maryland farms, operate retail and wholesale routes in the proposed marketing area in direct competition with local Maryland dealers and dealers whose plants are located in the city of Baltimore. In other parts of the proposed marketing area, handlers regulated under the Wilmington, Delaware, order purchase milk from both Delaware and Maryland dairy farmers and operate routes in competition with local Maryland and Baltimore City dealers. Baltimore City dealers also distribute milk in other parts of the Eastern Shore portion of the proposed marketing area, directly or through subdealers, on routes in competition with local Maryland dealers and dealers whose plants are located in the southern portion of the State of Delaware. Baltimore City dealers distribute milk in parts of the proposed marketing area and outside of the proposed marketing area in direct competition with handlers regulated under the Washington, D.C., marketing order.

From time to time, contract sales to Government installations in the proposed marketing area are made from Pennsylvania and New Jersey plants.

Baltimore and local Maryland dealers regularly compete with out-of-State dealers in bidding to supply such outlets. During 1958 one Baltimore dealer disposed of more than four million pounds of fluid milk under contract to the Dover Air Force Base at Dover, Delaware.

The Maryland Cooperative Milk Producers, Inc., representing the majority of dairy farmers supplying Baltimore City dealers, moves its members' milk from plant to plant as needed. Milk not needed for local fluid consumption is disposed of to out-of-State points, particularly in New Jersey, for fluid disposition or is moved to local plants for manufacturing uses. Products processed at such plants are disposed of on the national market in direct competition with similar products from all parts of the country.

From the foregoing it is concluded that the handling of all milk in the proposed marketing area is in the current of interstate commerce or directly burdens, obstructs or affects interstate commerce in milk and its products.

Need for an order. Marketing conditions in the Upper Chesapeake Bay marketing area justify the issuance of a marketing agreement and order.

The Maryland Cooperative Milk Producers, Inc., has been in existence since 1918 and represents a majority of the dairy farmers regularly supplying the market. The cooperative markets milk on a classified use basis, pools the proceeds therefrom and returns a blend price to its member producers.

During World War II and the immediate postwar years the milk supplied by dairy farmers in the local milkshed was insufficient to meet the fluid needs of the market. This condition generally persisted until 1953. Through 1949 the Class I price established by the cooperative and the blend price returned to its members were virtually identical with the result that all dealers, whether buying from the cooperative on a classified use basis or from independent producers on a flat price related to the cooperative's blend price, paid about the same price for milk for fluid uses. Since 1949 the spread between the cooperative's Class I price and blend price has substantially widened.

While no handler in the market receives his entire supply of milk through the cooperative, four or five of the ten Baltimore City handlers have regularly purchased a very large proportion of their fluid needs from the cooperative. Other handlers buying primarily from independent producers purchase supplemental milk from the cooperative on a spot basis.

As the spread between the cooperative's Class I price and blend price has increased, handlers who regularly purchase the bulk of their milk through the cooperative have found themselves at a substantial competitive disadvantage with handlers purchasing primarily from independent producers at prices reflecting the cooperative's blend price. In an effort to reach a more equitable position in relation to the dealers purchasing on a flat price basis, association buyers have attempted to replace their classified purchases with milk purchased from independent producers or from other sources.

In 1954, one Baltimore dealer shifted approximately 120 dairy farmers with an average daily production of about 9,000 gallons from the Washington to the Baltimore market with no significant addition of Class I sales. These dairymen were paid on a flat price basis which, while higher than the cooperative's blend price, did not reflect the full use value of the milk. To the extent that this milk displaced milk previously supplied by the cooperative in Class I use it increased the divergence between the Class I and blend price and placed further pressures on competing handlers to acquire greater volumes of milk for bottling needs at less than classified prices. Several months later an additional 3,000 gallons of milk per day was made available to the market on a flat price basis and dealers began a concerted effort to induce cooperative members to leave the association. The difference between the association's Class I and blend price, which in 1953 averaged $0.91, increased to $1.07 in 1955.

On April 1, 1956 a Baltimore dealer contracted for his milk supply with a Greencastle, Pennsylvania, plant operator receiving milk from approximately 200 dairy farmers. The increasing volumes of purchases by Baltimore dealers on a flat price basis from sources other than the cooperative have resulted in substantial loss of Class I sales by the cooperative and hence lower returns to its member producers. Since milk from non-association sources is purchased at prices related to the association blend, a reduction in returns to the cooperative members reflects a reduction in returns to all producers.

In 1956 the association requested a hearing to consider a Federal order for the market. The hearing in this matter was held in the latter part of 1956. Following the hearing and effective February 1957, nine of the ten Baltimore dealers accepted the "Terms of Sale" offered by the association and the association accordingly withdrew its request for an order, anticipating that market stability then could be reestablished without the assistance of a Federal order. As a result of these negotiations the Greencastle, Pennsylvania, supply was withdrawn from the market.

The "Terms of Sales" effected in February 1957, expired in April of 1958 and dealers renewed their efforts to buy independent milk. In September 1958, the largest Baltimore dealer closed his manufacturing plant and initiated a drive for independent producers offering a flat price of 11 cents over the cooperative blend price. Other dealers also increased their procurement from other than cooperative sources. The buying advantage enjoyed by flat price purchasers has placed the association at an ever-increasing competitive disadvantage in marketing its members' milk on a classified use basis and has substantially increased its percentage of milk disposed of for other than Class I use. By February 1959 almost 30 percent of the fluid sales of the ten Baltimore dealers represented procurement from independent producers as compared to only 12 percent as late as 1950.

In an effort to preserve its established Class I outlets, the Maryland Cooperative Milk Producers, Inc. has priced milk to its buyers at prices calculated to meet the competition from the flat price buyers in their regular trade and the competition from outside dealers on contract business for Government installations. At the time of the hearing at least four different Class I prices were applicable to the same quality milk. Notwithstanding, the cooperative has not been able to maintain its Class I outlets in the market and as a result an ever-increasing proportion of its milk has been disposed of for other than fluid uses.

The close interrelationship of the Upper Chesapeake Bay, Washington and Philadelphia milksheds clearly indicates the necessity for price alignment between markets. Any substantial price disparity will result in a loss of producers to the higher priced markets and will seriously jeopardize the maintenance of an adequate milk supply for the Upper Chesapeake Bay market. During the latter part of 1958, a Philadelphia handler solicited cooperative members and independent producers on this market and producers on the Washington market, all located in the Eastern Shore area, and developed a tank route for Philadelphia. Most of this route was comprised of former Baltimore shippers. Another Philadelphia handler developed a tank route from the Washington-Frederick County Maryland portion of the milkshed.

It is concluded that the issuance of a marketing agreement and order for the Upper Chesapeake Bay marketing area is necessary to re-establish market stability and assure a continuing adequate supply of pure and wholesome milk for the market. Such order will tend to effectuate the declared policy of the Act. The adoption of a classified pricing plan on a marketwide basis, based on audited utilization of handlers will provide a uniform system of pricing milk to all handlers and will insure a fair and equitable return to all producers. Public hearing procedure as required by the Agricultural Marketing Agreement Act will assure full opportunity for representation of all interested parties in presenting information on marketing conditions and participating in the determination of prices for milk for the marketing area.

Marketing area. The marketing area as herein proposed includes all of the territory in the city of Baltimore, the town of Laurel in Prince Georges County, the counties of Anne Arundel, Baltimore, Caroline, Carroll, Cecil, Dorchester, Harford, Howard, Kent, Queen Annes, Somerset, Talbot, Wicomico and Worcester and the northern portion of Calvert County, all in the State of Maryland, together with all piers, docks and wharves connected therewith and including all territory which is occupied by Government (municipal, State or Federal) installations, institutions or other establishments.

The maximum area of regulation as set forth in the proposals contained in the hearing notice included, in addition

to the area herein proposed, the northern portion of Frederick County, Camp Ritchie in Washington County, the southern portion of Calvert County and a substantial portion of Prince Georges County.

The area as herein proposed is slightly in excess of 5,500 square miles in size and according to the 1950 census had a total population of more than 1,600,000 including 900,000 within the city limits of Baltimore. Maryland State Planning Commission population estimates forecast a population growth in the area to slightly in excess of 2,000,000 persons in 1960. These figures exclude a very substantial influx of temporary residents to the shore areas during the summer recreation months.

Milk for the marketing area as herein proposed is produced under the applicable health regulations of the city of Baltimore, the State of Maryland or the city of Frederick. Milk produced under inspection of the Baltimore City health department is sold throughout the area since it is acceptable under all of the applicable ordinances. Milk produced under State or local health inspections, while generally of similar quality, apparently cannot be distributed in the city of Baltimore.

While no route distribution is made within Baltimore City from plants located outside the city, the entire proposed area outside the city is served generally by Baltimore dealers in competition with local and/or out-of-State dealers. Two of the larger dealers operating within the city also operate routes directly or through subdealers throughout the proposed area. A third Baltimore dealer also distributes throughout the area, from routes originating at his Baltimore plant or from the Salisbury plant of a subsidiary corporation, milk for which is supplied in either packaged or bulk form from his Baltimore bottling plant or his Westminster (Baltimore approved) supply plant. A number of other Baltimore dealers distribute generally in all except Calvert County and the Eastern Shore counties.

The southern two-thirds of Baltimore County, a highly developed suburban area with a high concentration of population, is the area in which the greatest overlapping of route sales by the several dealers occurs. All ten Baltimore dealers operate routes here in direct competition with three local Baltimore County dealers, one Carroll County dealer and one Pennsylvania multiple plant dealer. Seventy percent of the total population of the county is urban according to the 1950 census.

The southern portion of Harford County, while less urbanized than Baltimore County, is a concentrated area of sales with substantial overlapping of dealers' routes. The area is served by six of the ten Baltimore dealers, two local dealers (one from Baltimore County and the other from Cecil County) and the multiple plant Pennsylvania dealer. Located in this area are the Edgewood Army Chemical Center and the United States Proving Grounds for which Baltimore dealers have been the principal suppliers in recent years. In 1958 they supplied nearly five million pounds of milk to these two installations.

Much of the area beyond the city of Baltimore and its suburbs is essentially rural in character and population density is relatively low. Nevertheless, each segment of the area represents a substantial area of sales for affected handlers.

The town of Laurel and the counties of Howard, Anne Arundel and the northern portion of Calvert, except for minor sales by handlers presently regulated under the Washington, D.C., order and by small local dealers, are served almost exclusively by Baltimore dealers. Situated in Anne Arundel County are the U.S. Coast Guard installation at Curtis Bay, Fort George G. Meade and the U.S. Naval Academy for which Baltimore dealers have been the principal suppliers. Their total sales thereto in 1958 were nearly 11 million pounds.

Baltimore dealers, together with local dealers who would necessarily be regulated by virtue of their extensive sales in southern Baltimore and Harford Counties do the preponderance of business throughout Carroll, Baltimore and Harford Counties. Minor sales are made in parts of Carroll County by regulated Washington handlers and in the extreme northern portion of each of the three counties by various local Pennsylvania dealers. In addition, one large multiple plant dealer in Pennsylvania alternatively serves much of the three-county area from bottling plants located at York, Lancaster and Ephrata, Pennsylvania.

This dealer proposed that the northern portion of each of these three counties be excluded from the marketing area, thereby minimizing, if not eliminating the impact of regulation on all Pennsylvania dealers except his multiple plant operation.

While the suggested exclusion might relieve the impact of regulation on five relatively small dealers, it would also offer opportunity for the multiple plant operator to avoid regulation in whole or in part by virtue of the flexibility of his operation and his ability to switch sales as between plants. Adoption of the proposed exclusion would have very serious impact on two local dealers, one located in the town of Frizzelburg in Carroll County and the other in the town of Port Deposit in Cecil County. These two handlers have substantial sales in northern Carroll and Harford Counties, respectively, and would be placed at a serious competitive disadvantage in competition with unregulated Pennsylvania dealers, as would the several Baltimore handlers who also serve the area.

Located in Cecil County are the U.S. Naval Training Center at Bainbridge and the U.S. Veterans Hospital at Perry Point, which have been principally supplied by Baltimore dealers. In 1958 their sales to these installations totaled more than 2.8 million pounds. The county is otherwise served by one Baltimore dealer, two handlers under the Wilmington, Delaware, order, one local dealer who would otherwise be regulated by virtue of his sales in Harford County, and by the multiple plant Pennsylvania dealer. The county represents the primary area of distribution of the local dealer and its exclusion might well place him at a serious competitive disadvantage with his Pennsylvania competitor who because of his flexibility of operation could continue to serve the area from unregulated plants.

While the eight Eastern Shore counties, as previously stated, are essentially rural in character they nevertheless represent a substantial area of sales by dealers who would be regulated by virtue of their distribution in other parts of the proposed marketing area. More than 60 percent of the total Class I disposition here (estimated to be approximately 2,900,000 pounds monthly) is milk purchased from dairy farmers by Baltimore dealers, 70 percent of which is actually packaged in Baltimore City plants. In excess of 50 percent of the milk distributed here originates from the plants of Baltimore dealers and is distributed directly on routes, largely through subdealers, throughout the area. An additional 10 percent is moved in both packaged and bulk form to the Salisbury plant of a subsidiary corporation of a Baltimore dealer from which plant it is distributed, along with a smaller volume of milk received there directly from dairy farmers, on routes throughout the eight-county area. Local dealers, excluding the Salisbury dealer, have less than 40 percent of the overall Class I distribution in the area.

The largest local Maryland dealer, excluding the Salisbury dealer, distributes in only four of the eight counties. One Delaware dealer, doing the greater proportion of his overall business in Maryland, has distribution in five of the eight counties. No other local dealer has distribution in more than three of the eight counties.

While opponents of regulation of this area contend that sales through subdealers and the Salisbury plant previously referred to should not be considered in any determination of the extent of business in the Eastern Shore counties by Baltimore dealers, such position is not valid. The manner of distribution is a business decision and each dealer's operations reflect the results of such decision. Baltimore dealers have an established, substantial interest in the entire eight-county area. They are in fact the primary distributors, distributing generally throughout the area. Only in the county of Dorchester is the greater proportion of business done by local handlers and each handler distributing in this county would be subjected to regulation by virtue of his distribution in one or more of the other seven counties. Hence, it is appropriate that the entire eight-county area be included in the marketing area.

The exclusion of the Eastern Shore area would place regulated Baltimore dealers at a serious competitive disadvantage with unregulated local dealers. The great preponderance of dairy farmers in the Eastern Shore area already have their milk priced under either the Philadelphia, Wilmington, New York-New Jersey or Washington, D.C. Federal orders. It can be assumed that local dealers need pay only prices

which compare favorably with the blended prices paid producers under their respective orders. Hence, regulated handlers accounting for their milk on a classified use basis would be placed in direct competition with flat price buyers purchasing milk at prices substantially less than the Class I price.

It is intended that sales of fluid milk from piers, docks and wharves and to craft moored thereat be included in the marketing area. It is also intended that the area include all the territory occupied by Government reservations, institutions or other such establishments, whether municipal, State or Federal, if they fall within the limits of the area as defined. The record indicates that in general the quality requirements for milk for such installations are similar to those for milk sold in other parts of the marketing area. These, by location and past performance, represent logical areas of distribution for Baltimore and Maryland dealers who are in substantial competition with one another in the marketing area. Unless they are included, regulated handlers will be placed at a serious competitive disadvantage in competing with unregulated dealers for such sales. The inclusion of these areas will tend to assure uniform and equal minimum prices for milk among handlers.

The marketing area as herein defined comprises a contiguous territory which is generally served by the same handlers. It is in reality a single milk market, all parts of which are regulated by health ordinances generally similar in scope and enforcement, which constitutes a practical unit for the proposed regulation.

Although the southern portion of Calvert County and a substantial portion of Prince Georges County (in addition to the town of Laurel) were proposed for inclusion in the marketing area, these areas are now a part of the Washington, D.C., marketing area regulated under Order No. 2. It cannot be concluded on the basis of this hearing that either of these areas should more appropriately be a part of this marketing area.

Dealers who would be regulated under this order are not the primary handlers in the northern portion of Frederick County nor have they generally supplied the Camp Ritchie installation. Proponents contend that regulation of the area is desired by local handlers regulated under the Washington order who generally serve the area. It is concluded that this area is not appropriately a part of this marketing area. If regulation there is desired, consideration should be given to the addition of this territory to the Washington marketing area in an appropriate amendment proceeding.

Milk to be priced. The plants which distribute milk in the Upper Chesapeake Bay marketing area dispose of the major portion of their milk receipts for fluid consumption. Milk intended for fluid consumption in the marketing area is required to be produced in compliance with inspection requirements of the duly constituted health authorities having jurisdiction in the area. The minimum class prices of the order should apply to such milk which is regularly received from dairy farmers at plants primarily engaged in the fluid milk business and which pasteurize and bottle milk for fluid distribution on retail or wholesale routes (including routes of vendors) or through plant stores in the marketing area or at plants which are regular and substantial suppliers of milk to such pasteurizing, bottling or distributing plants. This milk may be identified by providing appropriate definitions of the terms: "Pool plant", "Manufacturing plant", "Handler", "Dairy farmer", "Dairy farmer for other markets", "Producer", "Producer-handler", "Producer milk", "Other source milk" and "Route".

These definitions are designed to identify the supplies of milk on which the market regularly and normally depends. However, under the terms of the order herein proposed milk may be disposed of for fluid consumption in the marketing area by and from plants not meeting such criteria. It is necessary, therefore, to establish definitive standards of performance which may be used in determining which plants and what milk constitute the regular sources of supply and therefore become fully subject to regulation. Such standards are set forth in the order and apply uniformly to all plants wherever located. Any plant, regardless of location, may bring itself under regulation by performing in the manner required. Any plant may relieve itself from regulation by no longer operating in a way that brings it within the scope of the order. Under the circumstances, whether a plant will be fully or partially regulated or unregulated is determined by the decision of the plant operator.

As indicated elsewhere in this decision, marketwide pooling of producer returns is considered essential to the stable and orderly functioning of the market. One of the primary problems in setting up a marketwide pool is to establish appropriate standards which accommodate the sharing of Class I sales among those dairy farmers who constitute the regular source of supply for the marketing area. Performance standards, therefore, should be such that any milk plant which has as its major function the supplying of milk for fluid use in the marketing area would participate in the marketwide equalization pool. On the other hand, such standards should be sufficiently flexible to permit intermittent shipment of milk from supply plants not regularly identified with the local market and direct distribution on routes from plants which have only a minor part of their overall fluid business in the area without subjecting such plants to full regulation. Full regulation of such plants is unnecessary to accomplish the purposes of the order and might result in placing such plants at a competitive disadvantage in supplying the unregulated but primary markets with which they are normally associated.

Any plant other than that of a producer-handler, from which Class I milk equal to not less than 50 percent of its receipts of milk direct from dairy farmers is disposed of in the form of Class I milk during the month on routes (including routes operated by vendors) or through plant stores to wholesale or retail outlets and which disposes of not less than 10 percent of such receipts on such routes in the marketing area should be a pool plant subject to full regulation.

All plants presently distributing milk in the marketing area have a Class I utilization substantially in excess of 50 percent of their producer receipts and except for a few fringe area dealers, generally located in Pennsylvania, do substantially in excess of 10 percent of their overall Class I business in the marketing area.

A plant which distributes less than 50 percent of its total receipts from dairy farmers as Class I milk should not be considered as primarily in the fluid milk business and any distributing plant which does less than 10 percent of its total fluid business in the marketing area should not be considered as substantially associated with the local market.

The pool plant definition should also include a plant which has no direct distribution in the marketing area but which moves 50 percent of its receipts from dairy farmers during any month(s) of September through February or 40 percent of such receipts during any month(s) of March through August to another plant(s) which disposes of Class I milk equal to 50 percent or more of its receipts from dairy farmers and receipts from other plants and which disposes of at least 10 percent of such receipts as Class I milk on routes in the marketing area. Any supply plant which ships 50 percent or more of its milk to a distributing plant for the market during the September-February period of lowest production is clearly associated with the market and functioning as a primary supply source for this market. During the flush production months of March through August, the amounts of milk shipped from supply plants would normally be less than during the short season. At this season, therefore, a 40 percent shipping requirement is deemed appropriate to provide pool plant status for supply plants. The 40 percent provision is applicable, however, only to newly erected plants or in the event a plant ownership change is involved.

All of the supply plants presently associated with the market (except a nearby manufacturing plant, discussed later) ship the bulk of their receipts to the market during the short production months. The milk not needed for fluid use during the flush months is transferred or diverted to nearby manufacturing plants. The pooling of all milk primarily associated with the market can best be accommodated by providing that any supply plant which was a pool plant in each of the months of September through February shall be a pool plant in each of the months of March through August regardless of the quantity then shipped unless the operator thereof elects to withdraw the plant from regulation.

Any supply plant which was a nonpool plant during any of the months of September through February should not be permitted pool plant status in any of the immediately following months of March through August in which it is operated

by the same handler, an affiliate of the handler or any person who controls or is controlled by the handler. It would be inappropriate to permit a plant to hold pooling status during the flush months of production if the milk regularly received there is withdrawn from the pool during the short production months (when such milk would be most needed by the local market) to supply outside Class I markets. This provision, however, will permit a handler, who during certain short production months ships the required percentages, to pool his plant(s) in those months in which the standards are met.

It is recognized that the demand for milk from supply plants may vary seasonally and will be greatest during the season of low production. During the months of flush production, supplies of milk received at plants located in or near the marketing area may be sufficient to supply the Class I outlets. In such case it would be more economical to leave the most distant milk in the country for manufacturing and utilize the nearby milk for Class I use. Performance standards under the order should not force milk to be transported to distributing plants during the flush months merely for the purpose of maintaining eligibility for pooling.

To avoid uneconomic movements of milk, provision should be made whereby a plant may maintain pool status throughout the year if it supplies a substantial portion of its producer milk to the market during the normal short production months. The order, however, should not force such a supply plant to pool during the flush if it does not meet the current supply requirements and the operator thereof elects to withdraw his plant from the pool. Except as hereinbefore discussed, the order provisions permit qualification of a supply plant on the basis of the current month's performance. Moreover, a plant which has previously qualified in each of the months of September through February may retail pool status during the March through August period unless application is made to the market administrator to be a nonpool plant during those months.

A multiple plant handler operating in the market proposed that a system of plants including distributing-type and supply-type plants be permitted to qualify for pooling status as a unit. The regulation herein proposed provides minimum standards for both types of plants. No difficulty is anticipated in qualifying either bottling plants or any of the regular supply plants under the individual shipment provisions. However, provision for system pooling of supply plants will serve to minimize uneconomic and unnecessary transportation and/or receiving costs which might otherwise be incurred by the handler to assure pooling status for each of his supply plants. Providing an option under which all supply-type plants operated by a handler can be pooled as a unit (system) will promote efficient handling of a multiplant handler's total milk supply.

Plants primarily engaged in manufacturing operations and not meeting the pool plant qualifications herein recommended should not be granted pool status, nor should the order be so drafted that handlers are encouraged to develop a milk supply solely for manufacturing uses.

It is recognized that processing facilities must be available to the market to permit orderly disposition of the necessary market reserve and seasonal surplus resulting from day to day and month to month variations in supply and demand. To the extent that such surpluses exist, handlers with nonpool manufacturing operations need not be encumbered in their ability to process such surpluses through their own facilities. This can be accomplished through appropriate diversion provisions which will permit direct delivery from the farm to such nonpool plants without loss of pool status for the milk involved. However, to protect the integrity of regulation such diversion should be accommodated only to the extent necessary to assure orderly handling of the necessary market surplus. The diversion provisions hereinafter set forth will accomplish this end.

Proponents proposed that automatic pool plant status be granted the Westminster, Maryland, manufacturing plant of a proprietary handler who also operates a Baltimore City bottling and distributing plant. In support of their position they suggested that the status of this plant in the market is unique. They pointed out that handlers in the market have largely adjusted their receiving operations at their bottling plants to accommodate receipt of only bulk-tank milk whereas a large percentage of the producers identified with the market have not yet installed bulk farm tanks.

The proponent cooperative, which represents approximately 75 percent of all the qualified producers supplying the market, has a working arrangement with the operator of the Westminster plant whereby much of its members' can milk is regularly received there for cooling and assembly for movement to bottling plants in bulk. Such milk not needed for fluid use is processed through this plant into nonfluid products. In addition, this plant also is an outlet for much of the seasonal surplus of bulk tank milk in the market.

Under usual circumstances the Westminster plant would not meet the shipping requirements herein provided for supply plants. While this plant currently is performing an essential function in the marketing of producer milk; nevertheless, it would be inequitable to adopt special requirements which would pool one manufacturing plant and exclude other plants performing an essentially similar function in the handling of the market surplus.

Under usual circumstances appropriate diversion privileges adequately accommodate the orderly disposition of surplus milk and it is not desirable to provide pooling status for manufacturing plants not meeting the regular shipping requirements. Lower shipping requirements would encourage manufacturing plants to associate with the market solely for the purpose of participating in the equalization pool to the detriment of regular producers on the market.

It is not intended that the order shall assure a continuing market for any particular group of dairy farmers to the exclusion of other qualified dairy farmers. Notwithstanding, it is apparent that the orderly transition to bulk tank handling must necessarily be accommodated and hence some appropriate arrangement must be made to assure, for a reasonable time, continuing producer status for can producers.

The problem of handling can milk is peculiar only to the Baltimore City permittee plants and can be resolved by treating can milk regularly received from Baltimore City permittee farms at a nonpool plant in the marketing area for the account of a cooperative association as though a receipt of diverted milk. Individual dairy farmers, in order to retain their market, must expect to make appropriate adjustments in their farm operations to reflect the changing demands of the market. A period of 18 months will provide reasonable time for the cooperative and/or its individual members to make appropriate arrangements to retain pooling status on that milk now associated with the market but which cannot be received at pool plants in cans. This provision in conjunction with the regular diversion privilege hereinafter discussed, which accommodates the handling of weekend surpluses during the short season and all reserve and surplus milk during the flush, should permit the orderly handling and disposition of the necessary market reserve and seasonal surplus.

The Upper Chesapeake Bay area is adjacent to several other Federal order markets. Hence it is possible that milk may be distributed in the marketing area from plants which are fully subject to the classification and pricing provisions of other Federal milk marketing orders. To extend application of this order to plants doing the primary portion of their business in another marketing area would result in unnecessary duplication of regulation. The order proposed herein provides that a distributing plant which would otherwise be subject to the classification and pricing provisions of another order and which disposes of a greater volume of Class I milk in such other area than in this marketing area shall not be subject to regulation under this order. Any supply plant which disposes of a greater volume of milk in another marketing area and which would be subject to the classification and pricing provisions of the other order also should be exempted from regulation under this order. This condition should not be applicable during the months of March through August, however, if such plant had been a supply plant under this order in each of the preceding months of September through February unless the plant operator elects to withdraw his plant from regulation under this order.

Plants subject to the classification and pricing provisions of another order but making route sales in this marketing area or sales to pool plants under this order should be required to report their receipts and utilization to the market administrator so that their continued status with respect to this order can be determined.

A "handler" should be defined as any person in his capacity as the operator of a pool plant, or any nonpool plant from which Class I disposition is made on routes in the marketing area, and, any cooperative association with respect to the milk of any producer which it causes to be diverted to a nonpool plant for the account of such association. In addition the definition should include the operator of any nonpool plant from which shipments of milk are made to pool plants qualified on the basis of route distribution.

Inclusion in the handler definition of the operator of nonpool plants with direct Class I disposition in the marketing area (including a producer-handler) or supplying milk to pool plants distributing milk in the marketing area is necessary in order that the market administrator may require reports as he deems necessary to determine the continuing status of such individual. In the case of a distributing plant which does not acquire pool status because of insufficient sales in the marketing area, such reports are necessary to determine the amount payable by the operator of such plant on the milk distributed in the marketing area.

The handler definition should be sufficiently broad so as to include a cooperative association with respect to producer milk diverted to a nonpool plant for the account of such association. This arrangement will permit the cooperative association to divert milk for Class I use which might otherwise be used or disposed of by the proprietary handler in Class II and thus will promote efficient utilization of producer milk in the highest available use class. It will also make the cooperative association the responsible handler for can producer milk which it regularly moves to a nonpool plant for the account of the association during the first 18 months of operation of the order.

The term "dairy farmer" should include any person who produces milk which is delivered in bulk to a plant. The term "dairy farmer for other markets" as herein proposed is intended to designate those dairy farmers whose milk production is primarily associated with other markets and who should not be accorded pooling status along with regular producers for this market.

Under usual circumstances this market has an adequate milk supply. Any needed supplemental supplies would most likely be required during the short-production months. This is also the period when milk would be in greatest demand in other surrounding fluid markets which represent alternative outlets for milk produced by local dairy farmers. Under the marketwide pooling herein provided, any dairy farmer or group of farmers with an alternative outlet during the short season might find it advantageous to leave the local market during those months when milk is in greatest demand and seek to return during the flush-production months when the outside market was no longer available. While it is not intended that Federal regulation should preserve a market for any particular qualified producers to the exclusion of other qualified dairy farmers, the regulation should not provide a means whereby certain dairy farmers are accorded Class I outlets outside of regulated markets but dispose of their surplus in the pool. Under the terms of the order as hereinafter set forth a dairy farmer delivering milk to a pool plant during the months of March through August, who during the preceding months of September through February delivered his milk to a nonpool plant operated by the same handler, or an affiliate thereof, would be considered a dairy farmer for other markets during the months of March through August.

The term "producer" should be defined to mean any person other than a producer-handler or a dairy farmer for other markets, who produces milk which is eligible for consumption as fluid milk in the area and which milk is received at a pool plant.

The definition should be broad enough to include a dairy farmer whose milk is ordinarily so received but is diverted by a handler to a nonpool plant for his account on not more than 8 days (4 days in the case of every-other-day delivery) during any month of September through February and at any time during the months of March through August. In order that milk which is so diverted will continue to be included in the regular pool computations, it should be treated as if received at the pool plant from which it was diverted.

As previously indicated, it is intended that the order shall assure an adequate but not an excessive, supply of milk for the fluid market. The order provisions should not be drawn so as to encourage an excess volume of milk to associate with the pool. During the months of September through February it is not necessary to accommodate diversions to nonpool plants except insofar as may be necessary to assure orderly handling of the weekend surpluses which accrue because plant bottling operations may be suspended during weekends.

The months of March through August are the months of greatest production during which unlimited diversion privileges are desirable in order to expedite the orderly disposition of the necessary surplus.

As previously stated, special consideration must necessarily be given for a limited period of time to dairy farmers holding current Baltimore City permits whose milk is received in cans at a nonpool plant in the marketing area for the account of a cooperative association. During the first eighteen months of regulation the producer definition should also include a dairy farmer whose milk is so received and such milk, for purposes of this regulation, should be treated as milk diverted by the cooperative from a Baltimore City pool plant and the cooperative should be held as the responsible handler. The aforementioned limitation on number of days of diversion should not be applicable on such can milk.

Milk disposed of to Government installations under contract sales is required to meet specified standards patterned after the U.S. Public Health standards which are similar to those in effect in other parts of the area. It is intended that dairy farmers whose milk is received at a plant supplying contracts for Government installations in the marketing area shall be considered as qualified producers in any month when their milk is so disposed of, if the plant at which their milk is first received is a fully regulated pool plant during such month.

The term "producer milk" is intended to include all skim milk and butterfat contained in milk produced by producers and received at pool plants directly from such producers. The term also includes any diverted milk of producers which for purposes of this regulation is considered as a receipt at pool plants from which diverted. In recognition of the function performed by the Westminster plant and to simplify the application of regulation on milk moving through this or similar plants, it is also appropriate that milk transferred from a nonpool plant to a pool plant be considered producer milk up to the quantity of producer milk received at such nonpool plant as diverted milk for the account of a cooperative association. This treatment will implement the classification of producer milk and the application of compensatory payments.

A "producer-handler" should be defined as any person who operates a dairy farm and a plant from which Class I milk is disposed of in the marketing area and who received no other source milk or milk from other dairy farmers.

There are few producer-handler operations in the area and there is no indication that they have been a disturbing factor in the market. A producer-handler conducts an integrated operation—processing, bottling, and distributing only his own farm production. Full regulation of such individuals would provide considerable administrative difficulty and is not considered necessary under the existing market situation.

It was proposed at the hearing that a specific volume limitation be placed on producer-handlers and any such operation exceeding such limitation be subjected to full regulation.

A requirement that such a business be the personal risk and the personal enterprise of the person involved, together with the rules for classification and assignment of transfers to and from producer-handlers, hereinafter set forth, should tend to prevent such operations from becoming disruptive factors in the market. Further restrictions appear unnecessary at this time. However, as previously indicated it is necessary that the plant operator in his status as a handler be required to make reports to the market administrator in order that his continuing status as a producer-handler can be ascertained and to

facilitate accounting with respect to transfers from other handlers.

The term "other source milk" should be defined as all skim milk and butterfat utilized by a handler in his operation except fluid milk products received from pool plants, inventory in the form of fluid milk products and current receipts of producer milk. The term should include all skim milk and butterfat in products other than fluid milk products from any source, including those produced at the handler's plant during the same or an earlier month, which are reprocessed or converted to other products during the month. Other source milk is intended to represent all skim milk and butterfat from sources not subject to the classification and pricing provisions of the attached order. If other source milk is disposed of in Class I products, partial pricing and regulation is provided under compensatory payment provisions. Defining other source milk in this manner will insure uniformity of treatment to all handlers under the allocation and pricing provisions of the order.

The term "route" is defined to distinguish between the various methods of disposition of fluid milk products. This definition is necessary to facilitate the application of other order provisions. The term refers to the method by which fluid milk products are distributed to wholesale and retail customers as distinguished from sales to other plants.

(b) *Classification of milk.* A classified use plan should be established to insure that all milk and milk products are fully accounted for by the handler who is responsible for accounting and reporting to the market administrator and for making payments to producers. Accounting for milk and milk products on a skim milk and butterfat accounting basis and pricing in accordance with the form in which, or the purpose for which such skim milk and butterfat are used or disposed of as either Class I milk or Class II milk is the most appropriate means of securing complete accounting on all milk involved in market transactions.

Milk is disposed of in the market in a wide variety of forms, representing different proportions of butterfat and skim milk components of milk which may be greatly changed from the proportions of such butterfat and skim milk in milk as it is first received. Measured in terms of volume the products disposed of in the market may represent one quantity of milk and measured in terms of butterfat content only they may represent a different quantity.

There are obvious difficulties in reconciling the quantities of product to be priced, particularly when consideration is given to the increasing intermarket transfers of milk, where accounting in one area is in terms of product weight and in another area is in terms of milk equivalent of butterfat. Uniformity of prices between markets depends upon a complete measure of the milk quantities involved and this must be accomplished in terms of both butterfat and the skim equivalent of solids.

Essentially, market administrators use a skim milk and butterfat accounting approach in their verification procedure regardless of whether or not such a system is spelled out in the orders. The skim milk and butterfat accounting system provided for in the order recognizes the procedure generally used in Federal order markets for verification of the receipts and utilization of milk and milk products and will provide for uniformity in application of the accounting system to all handlers involved.

Only producer milk is intended to be priced under Federal orders; however, milk may be received at pool plants not only from producers but also from other handlers and other sources. Milk from all sources is commingled in the handlers' plants. It is necessary to classify all receipts of milk and milk products in a plant to properly establish the classification of producer milk and to apply the provisions of a classified pricing plan to such milk.

The fluid milk products which are classified in Class I are required by the appropriate health authorities in the marketing area to be made from milk or milk products procured from approved sources. The extra cost incurred by producers in producing quality milk and in getting it delivered to the market in the condition and in the quantities needed by the market necessitates a price for milk used in Class I products somewhat above the price of milk used in manufactured products. This higher price must be at a level which will provide sufficient incentive to producers through the blended price returns to encourage the production of those quantities of milk needed for the Class I products plus the necessary reserve needed for fluctuations in the market demand.

Milk which is excess to Class I use at any time must be disposed of for use in manufactured products. These products are less perishable than fluid milk products and they compete on the national market with similar products made from unapproved milk. Milk so used must be classified as Class II milk and priced according to its value in such outlets.

Under the proposed classification scheme, Class I milk would be all skim (including any used to produce concentrated milk and reconstituted or fortified skim milk) and butterfat disposed of (other than as sterile products in hermetically sealed containers) in fluid form as milk, flavored milk, skim milk, flavored or cultured skim milk, buttermilk, concentrated milk and 50 percent by weight of the product known as "half and half" which has a butterfat content of at least 12 percent but less than 18 percent. Skim milk and butterfat not specifically accounted for in Class II also would be classified in Class I.

All skim milk and butterfat used to produce products other than fluid milk products as set forth above should be Class II. This classification would include all of those products which are generally considered as manufactured milk products not required by the health authorities to be made from milk from approved local sources.

Fluid cream, although generally considered in its physical form to be a fluid milk product, should be classified in Class II. Practically, the area herein under consideration is an open cream market. Philadelphia, which is an open cream market, is less than 100 miles from Baltimore and is a primary factor in determining the price of cream in the Baltimore market. Health authorities with jurisdiction in the marketing area have approved outside sources for shipment of fluid cream. Such cream competes with cream derived from local producer milk. The inclusion of fluid cream as a Class I product would price cream derived from producer milk at a competitive disadvantage with cream imported from other sources.

Eggnog and milkshake mix also should be classified in Class II. Eggnog is not required to be made from approved milk and the product known locally as milkshake mix competes directly with ice cream mix which is a manufactured milk product not required to be produced from milk approved for fluid use.

"Half and half" is a mixture of milk and cream or skim milk and cream with a butterfat content adjusted to between 12 percent and 18 percent. Classification of this entire product as Class I might seriously deter the use of local producer butterfat in such product since hotels and restaurants could combine bulk skim milk priced in Class I with cream purchased from unregulated sources and sell a combined product at a price reflecting the lower cost resulting from such mixtures. Accordingly, it is concluded that 50 percent by weight of the quantity of skim milk and butterfat in "half and half" should be classified in Class I and the remaining 50 percent should be classified as Class II.

Handlers maintain inventories of milk and milk products which must be considered in accounting for receipts and utilization. The accounting procedure will be facilitated by providing that end-of-month inventories of all Class I products be classified as Class II milk, regardless of whether such products are in bulk or packaged form. Inventories of such products will be subtracted, under the proposed allocation procedure, from any available Class II disposition in the following month. The higher use value of any fluid milk product in inventory but, which is allocated to Class I milk in the following month, should be reflected in returns to producers. Inventories of fluid milk products on hand at a pool plant at the beginning of the month in which the plant is first pooled should be allocated as other source milk received at the plant during the month. The attached order provides for reclassification of inventories on that basis.

Small unavoidable losses of both skim milk and butterfat are usually experienced in operations within a plant. These losses are referred to in the trade as "shrinkage". Provision should be made for the classification of shrinkage since handlers must account for all plant receipts on a classified use basis. An

allowance of two percent of producer receipts as Class II milk was proposed as a practical, reasonable shrinkage percentage based upon experience in the market. Accordingly, it is concluded that actual shrinkage of producer milk not in excess of two percent of producer receipts should be classified as Class II. Any shrinkage in excess of that quantity should be classified as Class I.

In the determination of shrinkage of producer milk, total shrinkage should first be prorated between receipts of producer milk and receipts of other source milk. None of the shrinkage should be assigned to milk received from other pool plants since shrinkage on such milk is allowed to the transferring handler. All shrinkage of other source milk should be classified as Class II. The classification procedure herein recommended gives adequate protection in the classification of producer milk in this market and it is unnecessary to limit the classification of shrinkage on other source milk in Class II.

The skim milk and butterfat content of milk and milk products received and disposed of by a handler can be determined by recognized testing procedures. Some products, such as ice cream and condensed products, present a more difficult accounting problem in that some of the water present in the milk as received from the farm is removed in processing. In the case of such products, it is necessary that the market administrator ascertain, through the use of adequate plant records or standard conversion factors, the respective amounts of skim milk and butterfat used to produce these products.

The accounting for such products as condensed milk and nonfat dry milk should be based on the original pounds of skim milk and butterfat required to produce the product. The value of each pound of nonfat dry milk utilized by addition to or as a Class I product has a value to the handler the same as every other pound contained therein, or in similar products derived originally from producer milk. Neither the form in which, nor the source from which, such solids are obtained alters their value to the handler for such purposes as reconstitution or fortification and they may not be distinguished on the basis of cost of production, need for regular supplies, sanitary requirements, seasonality of production, or value to consumers. The effect of computing the value of the added nonfat solids in actual weight rather than on a skim milk "equivalent" basis is to alter the accounting method for such solids as compared with an equivalent quantity of such solids contained in fluid skim milk from producer milk which is utilized in the same product, in another Class I product, or even in Class II milk. The actual weight basis of accounting for the added solids used in fortified skim milk has the effect, from a pricing standpoint, of retaining in Class II milk a portion of the producer milk utilized in the production of such Class I product even though it represents the only end use resulting from the producer milk involved. This is equivalent to granting the handler a price reduction with respect to a portion of his Class I milk. Therefore, the accounting procedure to be used in the case of this and any milk product condensed from milk should be based on the pounds of skim milk and butterfat required to produce such product.

All skim milk and butterfat received for which the handler cannot establish utilization should be classified as Class I milk except for that shrinkage which may be classified in Class II as previously described herein. This provision is necesary to remove any advantage which might accrue to handlers who fail to maintain complete and accurate records and will assure producers full value for their milk according to use.

From time to time handlers may find it necessary to dump skim milk. Under such circumstances, the market administrator must be provided opportunity to witness the actual dumping, if he deems it necesary, and to otherwise have verifiable evidence to substantiate such reported disposition. Such Class II utilization should be allowed only when the handler during normal business hours has given the market administrator at least three hours advance notice of intention to dump and information regarding the quantity of skim milk involved.

No allowance is made for butterfat dumped even though the skim milk dumped, and for which a Class II classification is provided, is a component of a fluid milk product from which the butterfat has not been removed. Under normal circumstances, the butterfat component of any fluid milk product is salvageable and it is not desirable to permit dumping of butterfat under other than a Class I classification.

Each handler must be held responsible for a complete accounting for all his receipts of skim milk and butterfat. The handler who first receives milk from producers should be responsible for establishing the classification thereof, and for making payments to producers. This principle is fundamental to effective administration of the order and is consistent with the practice followed in federally regulated markets.

As previously indicated classification of skim milk and butterfat used to produce Class II products should be considered to have been established when the product is made. Classification of skim milk and butterfat used to produce fluid milk products should be established when such products are actually disposed of. Classification of such fluid milk products disposed of by transfer to another plant, under certain circumstances, should be determined on the basis of their utilization in the transferee plant.

Skim milk and butterfat in fluid milk products transferred between pool plants, should be classified as Class I unless both handlers indicate in their reports to the market administrator that such classification should be Class II. However, sufficient Class II utilization must be available in the transferee plant to cover any claimed Class II classification after the prior allocation of shrinkage, other source milk, and inventory of Class I products.

Skim milk and butterfat in packaged fluid milk products transferred from a pool plant to a nonpool plant should be classified as Class I and should not be subject to reclassification. Milk so moved is intended for disposition for fluid consumption and the Class I value thereof should logically accrue to producers in the local market supplying such milk.

All skim milk and butterfat in fluid milk products transferred or diverted to the plant of a producer-handler should be classified as Class I and should not be subject to reclassification. Producer-handlers operate essentially only a Class I business. Any supplemental supplies of milk obtained from pool handlers may be presumed to be needed by the producer-handler for fluid use and should be classified in the supplying handler's pool plant as Class I milk.

Skim milk and butterfat disposed of in bulk in the form of any fluid milk product to a nonpool plant (other than the plant of a producer-handler) which has route distribution within the marketing area should be classified as Class I milk to the extent of such plant's disposition of skim milk and butterfat, respectively, as Class I milk in the marketing area. Any remaining amount of such transfer or diversion should be assigned to the highest remaining utilization in the transferee plant after the prior assignment of receipts at such plant from dairy farmers who the market administrator determines constitute its regular source of approved supply for the outside area. This procedure will complement the application of the compensatory payment provisions and will provide the nonpool handler with Class I sales in the marketing area with the opportunity to choose whether he shall offset such Class I sales with pool purchases or make compensatory payments to the pool. In either event the pool handlers have assurance that nonpool handlers will not have a price advantage on milk disposed of in the marketing area. It is not intended that pool milk should displace a nonpool handler's regular receipts from dairy farmers which meet the quality requirements of the health authority having jurisdiction in the area in which his outside sales are made. However, transfers of pool milk to a nonpool distributing plant should take priority assignment in the highest available use class ahead of other receipts of milk at such plant except regular receipts direct from dairy farms approved to supply milk for fluid consumption.

Except as previously discussed skim milk and butterfat disposed of in bulk in the form of any fluid milk product to a nonpool plant either by transfer or diversion should be Class I unless specified conditions are met. If the transferee plant is located 300 miles or less from the City Hall in Baltimore, Maryland, by shortest highway distance the transferring handler should be permitted to claim classification as other than Class I. In such instance the transferee handler must maintain adequate books and records of utilization of all skim milk and butterfat in his plant which are made available to the market admin-

istrator, if requested, for verification purposes; and at least an equivalent Class II utilization of skim milk and butterfat, respectively, must have been available in such plant after the assignment of receipts at such plant from other Federal order plants in the class in which assigned under such other order. Provision for verification by the market administrator is reasonable and necessary to assure that producer milk will be paid for in accordance with its utilization. The record shows that there are ample manufacturing facilities within 300 miles of Baltimore to handle any prospective surplus of the market. Unless some limitation is provided on the distance beyond which shipments of fluid milk products are permitted to Class II classification, it would be necessary for the market administrator to follow any such shipments to their destination to determine utilization and classification. Such procedure would of necessity increase the costs of administering the order.

It is appropriate therefore both for administrative convenience and for the conservation of administrative funds to provide automatic classification in Class I for milk and butterfat contained in any fluid milk product which is moved more than 300 miles from Baltimore.

The class prices established by the order apply only to producer milk. Accordingly, since a plant may receive skim milk or butterfat from sources other than producer milk a procedure must be established whereby it may be determined what quantities of milk in each plant should be assigned to producer milk. The milk from producers who are regular suppliers of milk for the marketing area should be given priority in the assignment of Class I utilization at pool plants. When milk is received from other sources it should be assigned first to Class II milk. Unless this procedure is followed there can be no assurance that such other source milk would not be used to displace producer milk in Class I when it is advantageous to the purchasing handler. If the order permitted handlers to obtain other source milk for Class I uses whenever it was advantageous to do so while producer milk in the plant was utilized in Class II the order would not be effective in carrying out the purposes of the Act.

Under the allocation provisions of the order skim milk and butterfat received at a pool plant in the form of fluid milk products from a nonpool plant located in the marketing area are allocated as producer milk up to the quantity of skim milk and butterfat, respectively, in producer milk (i.e. milk diverted directly from Baltimore City permittee farms for the account of a cooperative association) handled at such nonpool plant. This procedure will implement the classification of producer milk. With this exception, skim milk and butterfat received from sources not regulated by an order issued pursuant to the Act should be assigned first to Class II milk.

Inventory of fluid milk products on hand at the beginning of the month should be subtracted from the next lowest available use classification following allocation of other source milk but prior to the allocation of producer milk. The procedure of allocation and computation of obligations provided will permit final classification of opening inventory in the current month and it is intended that there shall be a reclassification payment on any part of the opening inventory which is allocated to Class I in the current month. An exception to this procedure is provided in the payment provisions of the order to insure that such reclassification payment will not be made applicable to milk which has previously been priced as Class I milk under another Federal order which is carried in the handler's plant in opening inventory.

Following the assignment of unregulated other source milk and beginning inventory of fluid milk products, other source receipts in bulk in the form of fluid milk products received from plants regulated by other orders issued under the Act should be assigned to the lowest remaining available use classification. Under this procedure a handler has assurance that if his producer receipts are inadequate to meet his Class I needs and he purchases regulated milk from another Federal order market such milk will be assigned to Class I. Since it is not intended that there be any compensatory payment on other source milk which is classified and priced in Class I under another order and which is disposed of for Class I use in this market, this sequence of assignment will tend to minimize the application of the compensatory payment provision.

It is intended that the order shall recognize the principle of free movement of packaged fluid milk products between Federal order markets. Accordingly, the assignment provisions provide that receipts of packaged fluid milk products from plants regulated under another Federal order shall be assigned to Class I. The pricing under the several orders from which such movements of milk might occur is such that no pricing advantage can be gained by the movements of packaged milk between markets. However, efficiencies in scale of operation derived from concentration of specialized packaging operations in a single plant may prove advantageous to multiple plant operations. This unrestricted competition for sale among all handlers whose milk is priced and regulated on a uniform basis will provide greater flexibility in daily operations of handlers and a better balance of milk supplies between markets will be gained by permitting the free movement of such packaged fluid milk products. The Philadelphia, Pennsylvania, Wilmington, Delaware and the New York-New Jersey orders, under certain circumstances, permit the distribution of Class I milk which is not priced under such orders. It is necessary therefore, to provide a compensatory payment on any milk originated from another Federal order plant which is not priced as Class I under such other order.

The only remaining receipts not yet allocated are producer receipts and receipts from other pool plants. Receipts from other pool plants are deducted from the class in which assigned under the transfer provisions and the remaining utilization is presumed to represent producer receipts.

If after making the various assignments of skim milk and butterfat pursuant to the allocation provisions of the order, the total of all Class I and Class II milk assigned to producer milk exceeds the amount of producer milk reported to have been received by the handler for whose pool plants the ocmputation is being made, such "overage" should be assigned first to the available Class II utilization and any remainder to Class I. Such overage should be paid for by the handler at the applicable class prices. In the allocation procedure recognition is taken of all receipts of other source milk reported by the handler. When utilization records indicate a disposition greater than receipts it must be presumed that the handler underreported his receipts of producer milk.

(c) *Determination and level of class prices.* The fundamental consideration in pricing milk in this market is to establish minimum Class I and Class II prices to producers which will result in adequate but not excessive milk supplies to meet the fluid milk requirements of the market plus a necessary reserve. Moreover, it is essential, to restore and maintain orderly marketing of milk in the area, that these minimum prices be in appropriate relationship with prices in other markets in the region. The production area for the market is largely coextensive with that for the Washington market and overlaps the production areas for the Philadelphia, Pennsylvania, Wilmington, Delaware, and the New York-New Jersey Federal order markets as well as a number of local markets.

Class I price. A basic Class I price of $5.10 per hundredweight for the months of March through June and $5.55 per hundredweight for the months of July through February should be established for the Upper Chesapeake Bay market for the first 18 months in which the order is in operation. An adjustment mechanism should be provided which will move such price either upward or downward, as the case may be, to reflect the average movement in the Class I price levels in the Philadelphia, New York-New Jersey and Chicago markets.

The pricing mechanism herein provided as well as the pricing level is identical with that under Order No. 2, regulating the handling of milk in the Washington, D.C., marketing area. The intermarket relationship between Baltimore and Washington requires a close alignment of prices between the two markets.

Class I prices in the Baltimore and Washington markets have been closely related over an extended period of years. Since 1954 the Washington price has tended to exceed the Baltimore price. However, if all of the various subclasses of fluid milk sales in the respective markets (including sales to military installations, school milk, economy brand milk and special discount milk) are considered, prices in the two markets have tended to approach equality.

Any analysis of the appropriate Class I price level must consider the cost at which milk may be secured from de-

pendable alternative supply sources. Several Washington area handlers have route distribution in parts of the local marketing area and local handlers operate routes in parts of the Washington marketing area. Several handlers operate plants in both this market and in the Washington market and any significant variation in the Class I price as between the two markets could result in shifts of plants and/or producers from one market to the other.

In recent years, improvements in the handling and transportation of milk have made the Midwestern area a potential source of supply for Northeastern milk markets, including the Upper Chesapeake Bay area. The Chicago milkshed represents an appropriate area for determining alternative costs because of its dependable reserve supply and its past experience as a supplier of milk to fluid markets throughout the country. Official notice is taken of the Washington, D.C., decision (24 F.R. 3630) in which it was concluded that an annual Class I price level of $5.40 would provide an appropriate price alignment between that market and Midwestern supply sources. Since both Baltimore and Washington are approximately equidistant from Chicago it is appropriate that the initial Class I price level for this market should be identical with that presently applicable in the Washington market.

Milk prices in fluid milk markets throughout the country normally vary seasonally, being highest in the short production months and lowest in the months of flush production. Under usual circumstances some seasonality of pricing has prevailed in the local market; however, there appears to have been no fixed pattern of seasonality in the price. It is desirable that some seasonality be provided to insure that the cost of alternative supplies during the flush production months will not be sufficiently below the local price to encourage handlers to drop local milk during this period in favor of cheaper supply sources. The months of March through June constitute the period of flush production in this area. Under these circumstances, it is concluded that an appropriate intermarket pricing relationship can be maintained throughout the year if a price of $5.10 and $5.55, respectively, is provided for the periods of March through June and July through February.

Notwithstanding the fact that the pricing herein recommended is limited to a period of 18 months, it is essential that some mechanism be provided to assure that the price during such period will reflect the current supply-demand situation in the market and maintain an appropriate relationship with prices in surrounding markets. Lack of market-wide information at this time deters the formulation of a supply-demand adjuster based on local market conditions. Proponents recommended that in order to assure a continuing appropriate price relationship with the Washington price the identical adjustment mechanism provided in the Washington order should be provided under this order. They pointed out that the production area for the local market overlaps that of Philadelphia and New York-New Jersey as well as Washington and hence the supply-demand adjustment mechanism provided for Washington is equally appropriate here.

It is concluded that an adjustment mechanism based on the average movement in the Philadelphia, New York-New Jersey and Chicago Federal order Class I price (as provided in the Washington order) will produce appropriate changes in the local Class I price which reflect changes on the national market for milk and cost factors affecting the supply and demand for milk and will serve to maintain a reasonable alignment of prices between markets during the interim period of operation under the order.

Class II price. Some milk in excess of Class I requirements is necessary to maintain an adequate supply of milk for the fluid market at all times. This excess milk must be disposed of in manufactured products which would be Class II under the proposed classification system. The price for such milk should be maintained at the maximum level consistent with facilitating its movement to manufacturing outlets when not required for Class I use in the market. The Class II price level should not be at so low a level, however, as to encourage procurement of milk supplies by handlers for the sole purpose of converting such milk into Class II products.

The members of the Maryland Cooperative Milk Producers Association supply at least seventy-five percent of the milk for the local market and the cooperative carries the bulk of the market reserve. Milk not needed for fluid uses is diverted to nearby plants for manufacturing uses. The facilities of the Maryland and Virginia Cooperative Milk Producers at Laurel, Maryland, and the manufacturing plant at Westminster, Maryland, previously referred to, represent the principal outlet for surplus milk. However, other manufacturing facilities are available in the production area. The available facilities are adequate to handle any prospective market surplus.

Proponents proposed that the Class II price be established at a level somewhat below the price established under the Washington order contending that this would promote better price alignment with the Philadelphia and the New York-New Jersey Class II price. They pointed out that the cooperative does not own a manufacturing plant and must move milk to local manufacturing plants for processing at some additional transportation cost.

The available manufacturing facilities are favorably located with respect to the local market and to the production area. Under the diversion provisions herein provided milk can be efficiently moved direct from the farm to such manufacturing plant. Since much of the local surplus is processed through the same facilities used to process the neighboring Washington surplus and such facilities are equally accessible to both Baltimore and Washington it would be inappropriate and unnecessary to establish a lower price than provided under the Washington order. It is concluded therefore, that the Class II price under this order should be established by the same formula and at the same level of the Washington Class II price.

The formula as herein proposed would base the butterfat value on the Philadelphia market weekly quotations per 40-quart can of 40 percent sweet cream approved for Pennsylvania and New Jersey for each week ending within the month as reported by the United States Department of Agriculture, and would provide a make allowance of $2.00 per can of cream. In order that butterfat values may not be unduly depressed by local market conditions in the Philadelphia area as reflected in such cream price it is provided that the butterfat value shall not be less than the average Grade A (92-score) butter price at New York as reported by the United States Department of Agriculture for the month less 17 cents. This arrangement will provide assurance to local producers that the Class II price will continuously reflect competitive eastern butterfat values.

The skim milk value under the formula as herein proposed would be based on the average of the Chicago daily market quotations for roller and spray nonfat dry milk as reported by the Department of Agriculture for the period from the 26th day of the preceding month through the 25th day of the month for which the Class II price is being determined and reflects a make allowance of approximately five and one-half cents per pound of powder. The formula as herein proposed would have yielded an average Class II price of $3.23 and $3.02 for the years 1957 and 1958, respectively. The 1958 price would have been eight cents higher than the New York Class III price, and six cents over the Philadelphia Class II price, and appropriately reflects the value of milk going into manufactured products in this market. This level of Class II pricing should provide for the orderly disposition of milk in excess of fluid needs and at the same time will return to producers a competitive use value for such milk. A higher price for Class II milk than that herein proposed might result in a loss of outlets for local producer milk for manufacturing uses and hence, would not be in the interest of orderly marketing.

One handler proposed that provision be made for an adjustment to the Class II price during the flush production months which would provide a lower pricing for milk disposed of for butter and hard cheese. This handler also proposed that cream quotations be used to determine the Class II butterfat value without provision for a butter floor.

There are adequate facilities for handling the market surplus in the higher valued nonfluid milk products and hence no reason for encouraging the use of producer milk for manufacture of butter and hard cheese. There is no indication that facilities are available in the market for the manufacture of hard cheese and, while butter-making facilities are available, it is apparent that they are not used to any extent.

Producers should have assurance under the order that they will receive returns commensurate with the use value of their milk. Cream prices may be temporarily depressed by local surplus conditions in the Philadelphia market. However, when such prices are below current butter quotations it is apparent that such butter quotations, which reflect the support levels established for butterfat, more nearly reflected the use value of butterfat. It is appropriate therefore to provide for use of the higher of the Philadelphia cream quotation or the New York butter quotation.

Butterfat differentials. The classification system hereinbefore set forth provides for a full accounting of all skim milk and butterfat. While milk is priced to handlers at the basic test it is intended that handlers costs for milk shall reflect the actual use value of skim milk and butterfat in each class. This can be accomplished by adjusting the class prices of each handler by appropriate butterfat differentials to the end that the per hundredweight costs of milk in each class for such handler reflects the actual test of milk used in such class.

The health regulations applicable in the marketing area permit the standardization of milk for consumer use and open market cream can be sold in a substantial part of the marketing area. Excess cream must be disposed of in the open market or utilized in manufactured products. Since butterfat differentials above competitive values would encourage handlers to utilize alternative sources of butterfat it is desirable that such differentials reflect as closely as possible competitive open market cream values.

The basic test at which milk has been sold to handlers and uniform prices paid to producers historically has been 3.5 percent in this market. Both producers and handlers proposed that the 3.5 percent basic test be maintained.

It is concluded that the Class I butterfat differential value should directly reflect the open market value of sweet cream for fluid uses as determined from current price quotations on the Philadelphia cream market. Such value may be derived by dividing by 334.8 the average of the weekly quotations for 40-quart cans of 40 percent sweet cream approved for Pennsylvania and New Jersey in the Philadelphia market as reported each week ending within the month by the United States Department of Agriculture. Should the Class II butterfat differential exceed the value determined through this calculation, however, the Class II butterfat differential should be used as the Class I butterfat differential value.

The Class II butterfat differential should be directly related to the butterfat values in the Class II pricing formula. Such values reflect the competitive value of butterfat for manufacturing uses and will implement the orderly disposition of butterfat in excess of fluid needs.

Location differentials. Location differentials should be established for milk received at plants located a substantial distance from the market. Such differentials recognize the principle that milk similarly used and located should be similarly priced. Milk which originates nearest the market should command a higher price than milk more distantly located in order to reflect the difference in cost of transporting it to the marketing area. No advantage can be afforded any particular group of producers if the location differentials established realistically reflect only differences in transportation cost.

Several Baltimore City handlers operate plants at country points which are used for assembly of milk received from the farm. A total of five such country plants were associated with the market at the time of the hearing and four previously in existence had been closed. All the remaining plants almost wholly engage in can receiving operations where milk is received, weighed, sampled, cooled and moved in tankers to city bottling plants or to manufacturing outlets.

The continuing existence of these plants, located less than 35 miles from Baltimore City, is indicative of an unusual situation in the Baltimore market, complicated by the incomplete transition to bulk tank handling. The history of substantial location adjustments, which the cooperative has allowed Baltimore handlers for the operation of such country assembly stations, has no doubt encouraged handlers to continue operation of such stations at relatively short distances from the city and has deterred the development of adequate receiving and storage facilties at the city receiving plants.

The city bottling and distributing plant of one large handler, who operates four of the five country supply plants, is located in a redevelopment area. This handler testified that expansion of receiving and storage facilities at this time could not be considered pending a decision of the redevelopment authority on the continued operation of the plant in that area. However, it appears that lack of receiving and storage facilities at city distributing plants is a problem of long standing and has only been intensified by the conversion from can to bulk handling and the corollary effect of the closing of several other country can receiving stations.

It is not the purpose of Federal orders to hasten or promote the process of conversion to bulk tank marketing methods. Conversely, it would be inappropriate to maintain or promote continuance of the existing can handling methods when technological advances and the current dynamic economic forces in effect in the market would naturally make such conversion desirable. Proponents supported the principle that milk similarly used and located should be similarly priced but pointed out the lack of adequate city receiving and storage facilities.

The lack of adequate city receiving and storage facilities is largely confined to the single handler previously discussed. Proponents recognized the inequities which would result if handlers operating distributing plants located in the marketing area but outside of the city of Baltimore, from which milk is generally distributed in direct competition with Baltimore handlers, were permitted to purchase milk at a lesser cost than Baltimore City handlers. They proposed therefore that location differentials apply only to nondistributing receiving plants.

It is intended that the order shall establish uniform minimum prices for all handlers who are in competition for Class I sales in the marketing area. It would be inappropriate therefore to provide location differentials for distributing plants located in or near the marketing area. It would also be inappropriate to establish differentials within the radius from which milk should normally move directly from farms to bottling and distributing plants in the area.

In view of the geographical extent of the marketing area herein recommended it is desirable that an alternative basing point be established for purposes of applying location differentials. The City Hall in Baltimore, Maryland, and the Courthouse in Salisbury, Maryland, are appropriate points for this purpose. No differential should be established on Class I milk received at plants located within a 75-mile radius of either of these points. In the case of plants located more than 75 miles from the nearer of these points it is concluded that a differential on Class I milk of 12 cents per hundredweight plus 1.5 cents for each additional 10 miles or fraction thereof which such plants are located from such point, by shortest highway distance as determined by the market administrator, is appropriate. Such location differentials provide adequate allowance for transporting milk in bulk tankers between plants in this area.

Milk may be received at a fluid milk bottling plant directly from producers as well as from one or more receiving plants. Under such circumstances it is necessary to designate an assignment sequence which will protect producers from unnecessary transportation costs involving transfers for other than Class I uses. It is provided, therefore, that for purposes of computing allowable Class I location differentials for each handler, the Class I disposition from a fluid milk pasteurizing or bottling plant shall first be assigned to direct producer receipts at such plant and any remaining Class I use shall be assigned to receipts from other pool plants of the handler in the order of their nearness to the appropriate basing point.

The value of milk used in manufactured dairy products is affected little, if any, by the location of the plant receiving and processing such milk in contrast to the situation with respect to Class I milk. The milk received at country plants need not be transported to the city for utilization in Class II. Accordingly, a location differential should apply only to milk received at country plants and utilized in Class I or disposed of to plants which dispose of milk on routes in the marketing area.

The pricing provisions herein proposed utilize a number of reported prices and indexes from various specified sources. From time to time it is possible that such individual price(s) or index may not be reported or published. Under such circumstances it is necessary to provide that the market administrator shall use a price or index determined by the Secretary to be equivalent to or com-

parable with the unreported or unpublished factor or price.

Payments on other source milk. As previously pointed out, the minimum class prices established under the order apply only on producer milk received at plants subject to full regulation under the order. However, milk may be disposed of for Class I utilization by and from plants not subject to full regulation of the order. Such unregulated plants may sell milk in bulk form to pool plants that in turn use it in supplying their Class I outlets, or they may sell Class I milk directly on routes as defined herein, including sale to government installations.

The role of the compulsory classification system and the minimum prices as set forth in a Federal milk order is to insure that the price competition from reserve and excess milk will not break the market price for Class I milk, thereby destroying the incentive necessary to encourage adequate production. Because the classified program of the order is applicable only to fully regulated plants, it is necessary, in order to provide continued stability of the market, to remove any advantage unregulated plants may attain with respect to sales in the regulated market. Such plants have a real financial incentive to find a means to sell excess milk at prices somewhat less than current Class I levels so long as the price is higher than its value when used in manufactured dairy products. If unregulated plant operators were allowed to dispose of their surplus milk for Class I purposes in the regulated marketing area without some compensating or neutralizing provision of the order, it is clear that the disposition of such milk, because of its price advantage relative to fully regulated milk, would displace the fully regulated milk in Class I uses in the marketing area. The plan of Congress as contemplated under the Agricultural Marketing Agreement Act of 1937, as amended, of returning minimum prices to the producers for the regulated marketing area, would be defeated.

In the absence of any competitive or regulatory force which compels all handlers to pay producers for milk used in fluid outlets at a rate commensurate with its value for such use, the position of any handler who pays the Class I price is insecure, if not untenable, whenever cheaper milk is available to the market. A classified pricing program under regulation cannot hope to be successful in the long run in insuring returns to producers at rates contemplated by the Act if it is possible for some handlers to purchase outside milk for Class I use at less than the Class I price. Any handler who finds himself in a situation where his competitors pay less for fluid milk than he pays will be compelled to resort to the same methods, if possible. A price advantage in using unregulated milk is a compelling force in promoting its greater use and as a result it is probable that regular sources of regulated milk will eventually be abandoned by handlers, thus creating insecurity for themselves, producers, and consumers alike.

It is concluded, therefore, that the inclusion of compensation payment provisions in the order is necessary to insure against the displacement of producer milk for the purpose of cost advantage. This is essential to preserve the integrity of the classified pricing program of the order.

Provision for partial regulation through compensatory payments makes it possible for a handler operating outside the marketing area to use the facilities of fully regulated plants for disposing of surplus milk not needed for markets outside of the area without imposing the financial burden of such surplus on producers in the marketwide pool. Compensatory payments also make it possible for a handler outside the marketing area to maintain small amounts of regular sales in the marketing area without subjecting his outside sales to full regulation.

Requiring such outside handler to be fully regulated would mean that he would be required to account to the pool at the full Class I price for all of the milk sold outside of the marketing area which is in competition with milk not subject to regulation under the order. Such a requirement for a dealer with little business within the marketing area could readily induce him to abandon his sales in the marketing area. Permitting a handler to continue to sell milk to customers in the marketing area without any form of price regulation would give such handler a competitive advantage as compared to the handler whose primary business is within the area and who consequently is fully regulated.

There are a number of local dealers, particularly in Pennsylvania, who now have regular direct distribution in the marketing area, some of whom maintain unregulated status under the terms of the order as herein proposed. In addition there are a number of substantial dealers in the immediately adjacent markets, many of whom could readily extend their distribution routes into the marketing area and by preserving their unregulated status could operate with a substantial price advantage over regulated handlers. In order to prevent such unregulated milk from being a price advantage a provision for compensatory payments is necessary.

The compensatory payments applicable to other source milk disposed of in the marketing area from distributing plants which do not acquire pool status should be the same as those applicable to other source milk distributed from pool plants. It would not be possible to stabilize this market under the classified pricing program in the market if nonpool plants were allowed to distribute unpriced milk in the marketing area without compensatory payments. Handlers distributing such unpriced milk in the marketing area have the same opportunity to buy milk at the opportunity cost level as do the operators of the pool plants who purchase other source milk. In addition, however, the operator of a nonpool plant in all probability has surplus milk in his own plant which he would willingly dispose of on any basis that would yield a higher return than the surplus value. It would be particularly easy to dispose of such milk for Class I use in the marketing area by bidding for large contracts such as hospitals, defense establishments or other types of institutions. With surplus outlets as the alternative, and no compensatory payments to make, the nonpool handlers would have considerable incentive or margin to underbid the seller of priced milk for such sales. Providing for some method of compensating for, or neutralizing the effect of, the advantage created for unregulated milk, therefore, is an essential and necessary provision of the order.

A proposal was made that a distributing handler disposing of only a small proportion of his total Class I sales in the marketing area be required only to pay to his producers the utilization value of milk according to the class prices established under the order. It was contended that such a provision would provide equality between the pool handler and the nonpool handler since their required class prices would be the same.

The difficulty with this proposal in this market is that partially regulated handlers would be procuring their milk from farmers located in the same general supply area as fully regulated handlers. The fully regulated handlers would be required to return to producers only the market uniform price. The partially regulated handlers, on the other hand, would be required to pay returns based on their own utilization of milk. This could result in a variation of returns to producers payable by regulated and partially regulated handlers. Such a variation would have an unstabilizing influence upon the marketing of milk within the general supply area for this market. It is, therefore, not feasible to adopt the plan in this market.

It is concluded that the compensatory payment on other source milk utilized in Class I should be the difference between the Class II price and the Class I price under the order. The Class II price established by the order is a fair and economic measure of the value of milk in surplus uses in this area and hence, represents the actual value of other source milk.

By choosing a rate of compensatory payment which reflects the cost of the cheapest other source milk which may be expected to be available to regulated handlers, any advantage to one handler relative to others, in obtaining such cheap milk and substituting it for producer milk in Class I, is removed insofar as administratively possible and no handler is given the clear opportunity to gain an unfair advantage of obtaining other source milk is removed by the particular rate of payment herein provided, nevertheless, if other source milk is to be purchased, the incentive for purchasing the cheapest of such milk remains, because the lower the price which a handler pays for other source milk, the lower will be his total cost of purchasing such milk. In any event, a nonpool handler with Class I sales in the marketing area is provided with the opportunity to choose whether he shall offset such Class I sales with pool pur-

chases not subject to a compensatory or equalization payment.

All funds collected from compensatory payments should be added to the producer-settlement fund. The handler regulated by the order should be obligated to make compensatory payments to the producer-settlement fund. There will be no difference in actual price paid for milk whether the payment is made by the regulated handler or by the operator of the unregulated plant from which the other source milk was obtained. Because the regulated handler makes the actual distribution of the milk in the marketing area and because he reports its utilization to the market administrator he is, from the administrative viewpoint, the logical one to make the payment.

For the reasons set forth in this decision, Class I milk under the order is priced at the plant where the milk is first received from producers, hence, the compensatory payment on other source milk should be computed at the same stage of the marketing process to be directly comparable. No allowances are made in the order for cost and profits of handlers in moving producer milk to subsequent stages of marketing; neither should they be made for other source milk.

(d) Distribution of proceeds among producers.

1. *Type of pool.* The order should provide for the distribution of returns to producers through a marketwide equalization pool. Under this type of pooling all producers receive a uniform price which varies only to reflect differences in butterfat content and location of plant of receipt.

As has been previously indicated the principal cooperative association in the market carries the bulk of the necessary surplus of the market which it moves to nearby manufacturing plants. It is imperative, therefore, that a procedure for pooling be established which will provide for an equitable sharing by all producers of the lower returns realized from the handling of this necessary reserve supply of milk.

A marketwide pool will facilitate the activities of the cooperative in moving milk supplies among handlers to meet their individual needs and will encourage processing of the necessary surplus of the market at the plants which can make the most efficient use of such milk.

(2) *Producer-settlement fund.* Payment of producers under the marketwide pooling arrangement will require a producer-settlement fund for making adjustments in payments, as among handlers, to the end that the total sums paid by each handler shall equal the value of milk received by him at the prices fixed in the proposed marketing agreement and order.

Under this pooling arrangement handlers who are required to pay more for their milk on the basis of their utilization than they are required to pay to producers or cooperative associations will pay the difference to the producer-settlement fund; all handlers who are required to pay more to producers or cooperative associations than they are required to pay for their milk on the basis of utilization will receive the difference from the producer-settlement fund. The market administrator in making payment to any handler from the producer-settlement fund should offset such payments by the amount of payments due from such handler. This is sound business practice. Without this provision the market administrator might be required to make payments to a handler who may have obtained money from the producer-settlement fund by filing incorrect reports or who owes money to the producer-settlement fund but who is financially unable to make full payment of all of his debts.

If at any time, the balance in the producer-settlement fund is insufficient to cover payments due to all handlers from the producer-settlement fund, payments to such handlers should be reduced uniformly per hundredweight of milk. The handlers may then reduce payment to producers by an equivalent amount per hundredweight. Amounts remaining due such handlers from the producer-settlement fund should be paid as soon as the balance in the fund is sufficient, and handlers should then complete payments to producers. In order to reduce the likelihood of this occurring, milk received by any handler who has not made the required payments into the producer-settlement fund for the preceding month should not be considered in the computation of the uniform price in the current month.

(3) *Base and excess plan.* The order should provide for the payment of producers under a base and excess plan as an adjunct to the seasonality of pricing hereinbefore provided to encourage a pattern of production throughout the year consistent with the fluid needs of the market. Producers should be paid only the Class II price for their excess milk. The price to be paid for base milk delivered should be determined by dividing the residual value of the pool after deducting the value for excess milk by the total hundredweight of base milk.

A "base-excess" plan was first established in the market in 1918 and has been in continuous effect, with modification, ever since except during World War II when milk was in extreme short supply in relation to the Class I needs of the market.

Under the plan herein recommended bases should be determined annually and would reflect each individual producer's average daily deliveries during the months of July through December. Bases would be effective for the subsequent months of March through June. Each producer would receive payment at the base price for all milk delivered during the March–June period which was not in excess of his established base. Milk delivered in such months in excess of his established base would be paid for at the excess price.

The computation of a daily base for each producer would be made by the market administrator. The order provides that producers shall be notified of their established bases on or before the 20th day of February each year. The daily base of each producer would be determined by dividing his total deliveries of milk during the base-forming months by the number of days of delivery but not less than 154 days. For milk on every-other-day delivery each day of delivery would be considered for this purpose to be two days.

Since at least a portion of the recommended base-making period will have lapsed prior to the effective date of the order, some appropriate means must be provided for the computation of bases to be effective for the months of March through June 1960. The daily deliveries of producers, as determined from records of receipts at pool plants or by the cooperative association, in the case of those producer members whose milk was marketed for the account of an association, for that portion of the July–December 1959 period prior to the effective date of the order, together with deliveries reported to the market administrator under the terms of the order for the remainder of the period, will provide an appropriate record for this purpose.

Proponents proposed that the base-making period be the July–December period herein recommended and that the base-paying period be a full twelve-month period beginning with February of each year and running through the following January. They also proposed that provision be made whereby a new producer entering the market after the base-making period would be given a base equal to a specified percentage of his deliveries during the month; such percentage to be varied by months. They further proposed that a producer with an established base be permitted to relinquish his established base, if he so desired, in favor of a new base to be determined in the same manner as proposed for new producers.

Such a plan is not necessary in this market. There has been no fixed seasonality of pricing in the market in recent years. In lieu of seasonal pricing the base-rating plan has been relied upon to even production over the year.

For reasons previously stated it is necessary and desirable to provide seasonality of pricing. This pricing, in conjunction with the base-rating plan herein proposed, will tend to maintain the desired pattern of production throughout the year. Further, because of the interrelationship of the production area of this market with those of adjacent Federal order markets, none of which employ a base-rating plan, a longer operating base period than that herein proposed might tend to unduly deter desirable shifts of plants and producers as between markets in response to changing supply-demand conditions.

Operation of the base-excess plan for paying producers requires certain rules in connection with the establishment and transfer of bases to provide reasonable administrative workability of the plan. In the case of a producer selling, leasing, or otherwise conveying his herd to another producer, and when it can be established to the satisfaction of the market administrator that such conveyance is bona fide and not for the purpose of evading any provision of this order, the base should be permitted to be transferred in its entirety with proper

notice to the market administrator. It is also necessary for administrative reasons to provide the procedure for assignment of bases in cases of joint ownership and tenancy.

Since the base-excess plan herein proposed is to be effective in determining producer payments in only four months of the year, and all producers must establish a new base each year, provisions in addition to those contained herein for the establishment and tranfer of bases to meet unusual situations do not appear necessary.

(4) *Payments to individual producers and cooperative associations.* The order should provide that each handler pay each producer for milk received from such producer on or before the 15th day after the end of the month in which the milk was received. This is the customary date of payment to producers and it provides a reasonable time for the filing of reports, computation of and announcement of the uniform price and/or the base and excess prices for preparing individual checks for payment. The reporting, announcement and payment dates herein provided are synchronized to permit payment on the 15th day after the end of the month.

The order should provide that, in the case of a cooperative association which is authorized to collect payments due its producer-members, and which requests such payments in writing, the handler make payment to the cooperative association of the amount otherwise due its producer-members. Under the provisions of the order as hereinafter proposed a cooperative association by definition has "full authority in the sale of milk of its members" and is engaged in "making collective sales of or marketing milk or its products for its members". As the duly authorized agent of its producer-members there can be no question of its authority to receive the payments otherwise due its members. This privilege is specifically provided in the Act and the practice is followed by cooperatives operating in the market.

In the case of milk which a cooperative association, in its capacity as a handler, disposes of to a proprietary handler the order should require that such handler pay the cooperative association not less than the minimum order price applicable at the location of the transferee plant. The Act clearly establishes the intent that no cooperative association may sell milk to any handler at less than the prescribed order class prices.

In order that the cooperative may have the proper records upon which to base payments to individual producer-members, the handler should, on or before the 10th day after the close of the month, be required to furnish the cooperative association with a statement showing the name, address and code number of each producer for whom payment is to be made to the association, the volume and butterfat content of milk, number of days on which delivery was made and the amount of and reason for any deduction made by the handler from the amount payable to each individual producer. The responsible handler should be permitted to make only proper deductions for goods and services furnished to, and for payments made on behalf of, the producer, and for which written authorization has been given by the producer.

Payments to a cooperative association, in lieu of payment to individual producers, should be made on or before the 14th day after the end of the month. This procedure will permit the cooperative association to prepare and mail individual checks to its producer-members by the same date as provided for payment to individual nonmember producers.

In the event a handler has received milk from producers which has an average butterfat content of more or less than 3.5 percent, the returns to such producers should be adjusted by a differential which reflects the weighted average values of the butterfat and skim milk in producer milk utilized in the respective classes. This follows the same principle as the payment of a uniform price to all producers.

Proponents proposed that, in the case of milk received from any producer with less than 3.5 percent butterfat content, the butterfat differential, otherwise applicable, be increased by one cent. They suggested that the use of this higher butterfat differential would encourage producers to deliver milk of not less than 3.5 percent butterfat content.

It is doubtful that the small variation in butterfat differential would achieve its intended purpose. Moreover, since each producer shares equally in the total value of the handlers' Class I and Class II utilization at the basic test of 3.5 percent butterfat, it is equally appropriate that each should receive the average utilization value of the butterfat and skim milk components for milk testing above or below 3.5 percent. The producer butterfat differential should be rounded to the nearest full cent in accordance with the general custom of the market.

In making payments to producers for milk received at plants located at least 75 miles from both Baltimore and Salisbury the uniform price and the price for base milk should be reduced 12 cents plus 1.5 cents for each additional 10 miles distance or fraction thereof which such plant is located from nearer of such points. Such a location differential will reflect the cost of hauling milk to market by an efficient means and hence will distribute returns to producers in accordance with the location value of their milk.

No location differential should be applicable in making payment for excess milk. Excess milk is priced at the Class II price which reflects the value of milk for manufacturing uses in the production area. Producers should not be expected to be paid a lesser price for their milk than its value of manufacturing uses.

Administrative provisions. The marketing agreement and order should provide for other general administrative provisions which are common to all orders and which are necessary for proper and efficient administration of the order.

In addition to the definitions discussed earlier in this decision which define the scope of regulation, definition of certain other terms is necessary for brevity and to assure that each usage of such terms denotes the same meaning. These include the terms "Act", "Secretary", "Department", "Person", "Cooperative Association", "Route", and "Fluid Milk Product".

Provision should be made for the appointment by the Secretary of a market administrator, and the order should define his powers and duties, prescribe the information to be reported by handlers each month, set forth the rules to be followed by the market administrator in making computations required by the order, and provide for the liquidation of the order in the event of its suspension or termination.

The powers of the market administrator as set forth in the order are specifically provided in section 8c(7)(C) of the Agricultural Marketing Agreement Act of 1937, as amended, and the proposed language is essentially that of the statute.

The duties of the market administrator as set forth are essentially those which are found in all Federal milk marketing orders and are necessary to define specifically the responsibilities of the market administrator.

Handlers should be required to maintain adequate records of their operations and to make the reports necessary to establish classification of producer milk and payments due for such milk. Time limits must be prescribed for filing such reports and for making payments to producers. It should be provided that the market administrator report to each cooperative association, which so requests, the amount and class utilization of milk received by each handler from producers who are members of such cooperative association. For the purpose of this report, the utilization of members' milk in each handler's plant will be prorated to each class in the proportion that total receipts of producer milk were used in each class by such handler.

Handlers should maintain and make available to the market administrator all records and accounts of their operations and such facilities as are necessary to determine the accuracy of the information reported to the market administrator as he may deem necessary or any other information upon which the classification of producer milk or payments to producers depends. The market administrator must likewise be permitted to check the accuracy of weights and tests of milk and milk products received and handled to verify all payments required under the order.

It is necessary that handlers maintain records to prove the utilization of the milk received from producers and that proper payments were made therefor. Since the books of all handlers associated with the market cannot be audited immediately after the milk has been delivered to a plant, it is necessary that such records be kept for a reasonable period of time.

The order should provide for specific limitations of the time that handlers should be required to retain their books and records and of the period of time in which obligations under the orders should terminate. Provision made in

this regard is identical in principle with the general amendment made to all milk orders in operation on July 30, 1947, following the Secretary's decision of January 26, 1949 (14 F.R. 444). That decision covering the retention of records and limitations of claims is equally applicable in this situation and is adopted as a part of this decision.

Each handler should be required to pay the market admiinstrator as his pro rata share of the cost of administering the order not more than 5 cents per hundredweight or such lesser amounts as the Secretary may, from time to time prescribe on (a) producer milk (including such handler's own production), (b) other source milk in pool plants which is allocated to Class I milk, and (c) Class I milk disposed of in the marketing area (except to a pool plant) from a nonpool plant.

The market administrator must have sufficient funds to enable him to administer properly the terms of the order. The Act provides that such cost of administration shall be financed through an assessment on handlers. One of the duties of the market administrator is to verify the receipts and disposition of milk from all sources. Equity in sharing the cost of administration of the order among handlers will be achieved, therefore, by applying the administrative assessment to all producers' milk (including a handler's own production) and other source milk allocated to Class I milk.

Plants not subject to the classification and pricing provisions of the order may distribute limited quantities of Class I milk in the marketing area. These plants must be checked to verify their status under the order. Assessment of administrative expense on such milk sold in the marketing area will help defray the cost of such checking.

In view of the anticipated volumes of milk and the cost of administering orders in markets of comparable circumstances, it is concluded that an initial rate of 5 cents per hundredweight is necessary to meet the expenses of administration. Provision should be made to enable the Secretary to reduce the rate of assessment below the 5 cents per hundredweight maximum without necessitating an amendment to the order. This should be done at any time experience in the market reveals that a lesser rate will produce sufficient revenue to administer the order properly.

A provision should be included in the order for furnishing market services to producers, such as verifying the tests and weights of producer milk and furnishing market information. These should be provided by the market administrator and the cost should be borne by the producers receiving the service. If a cooperative association is performing such services for any member producers and is approved for such activities by the Secretary, the market administrator may accept this in lieu of his own service.

There is need for a marketing service program in connection with the administration of the order in this area. Orderly marketing will be promoted by assuring individual producers that they have obtained accurate weights and tests of their milk. To accomplish this fully, it is necessary that the butterfat test and weights of individual producer deliveries of milk as reported by the handler be verified for accuracy.

An additional phase of the marketing service program is to furnish producers with correct market information. Efficiency in the production, utilization and marketing of milk will be promoted by the dissemination of current information on a marketwide basis to all producers.

To enable the market administrator to furnish these marketing services, provision should be made for a maximum deduction of 5 cents per hundredweight with respect to receipts of milk from producers for whom he renders marketing services. If later experience indicates that marketing services can be performed at a lesser rate, provision is made for the Secretary to adjust the rate downward without the necessity of a hearing.

Rulings on proposed findings and conclusions. Briefs and proposed findings and conclusions were filed on behalf of several interested parties in the market. These briefs, proposed findings and conclusions, and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions set forth in the briefs are inconsistent with the findings and conclusions herein, the requests to make such findings or to reach such conclusions are denied for the reasons previously stated in this decision.

General findings. (a) The proposed marketing agreement and order and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the proposed marketing agreement and the order are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The proposed marketing agreement and order will regulate the handling of milk in the same manner as, and will be applicable to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

DEFINITIONS

§ 1027.1 General definitions.

(a) "Act" means Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).

(b) "Department" means the United States Department of Agriculture.

(c) "Upper Chesapeake Bay marketing area", hereinafter referred to as the "marketing area" means all territory situated within the corporate limits of the city of Baltimore, the town of Laurel in Prince Georges County; the counties of Anne Arundel, Baltimore, Caroline, Carroll, Cecil, Dorchester, Harford, Howard, Kent, Queen Annes, Somerset, Talbot, Wicomico, Worcester and that portion of Calvert County lying north of a line beginning at the western terminus of Maryland State Highway 507, continuing easterly along said highway to its intersection with Maryland State Highway 2, continuing northerly along said Highway 2, to its intersection with Maryland State Highway 263 and then easterly along said Highway 263 to its terminus at the Chesapeake Bay, all in the State of Maryland, together with all waterfront facilities connected therewith and including all territory within such boundaries occupied by Government (Federal, State or municipal) installations, institutions or other similar establishments.

(d) "Route" means a delivery (including any delivery by a vendor or disposition at a plant store or from a vending machine) of any Class I product to a wholesale or retail outlet, including a Federal, State or municipal establishment, but excluding any delivery to a plant.

§ 1027.2 Definitions of persons.

(a) "Person" means any individual, partnership, corporation, association, or other business unit.

(b) "Secretary" means the Secretary of Agriculture or any officer or employee of the United States authorized to exercise the powers and to perform the duties of the Secretary of Agriculture.

(c) "Dairy farmer" means any person who produces milk which is delivered in bulk (tank or cans) to a plant.

(d) "Dairy farmer for other markets" means:

(1) Any dairy farmer, whose milk is received at a pool plant during any month of September through February but whose milk is diverted to a nonpool plant during the month on more than the number of days specified in paragraph (e) (1) of this section, and

(2) Any dairy farmer whose milk is received at a pool plant during the months of March through August from a farm from which the handler, an affiliate of the handler, or any person who controls or is controlled by the handler, received milk other than as producer milk during any of the preceding months of September through February.

(e) "Producer" means any dairy farmer, except a producer-handler or a dairy farmer for other markets who produces milk which is received at a pool plant or which is disposed of in conformity with the conditions of subparagraphs (1) or (2) of this paragraph:

(1) Is diverted to a nonpool plant during any month(s) of March through August or on not more than 8 days (4 days in the case of every-other-day delivery) during any month(s) of September through February: *Provided,* That the milk so diverted shall be deemed to have been received by the diverting handler at a pool plant at the location from which it was diverted;

(2) Is regularly delivered during the month in cans to a nonpool plant in the

marketing area for the account of a cooperative association if the dairy farmer holds a valid farm inspection permit issued by the Baltimore City health authority: *Provided,* That milk so delivered shall be deemed to have been diverted by the cooperative association from a pool plant location in Baltimore City: *And provided further,* That the provisions of this subparagraph shall be effective only during the first 18 months of operation of this part.

(f) "Cooperative association" means any cooperative marketing association of producers which the Secretary determines, after application by the association:

(1) To be qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act"; and

(2) To have full authority in the sale of milk of its members and to be engaged in making collective sales of or marketing milk or its products for its members.

(g) "Handler" means any person (1) in his capacity as the operator of a pool plant; (2) in his capacity as the operator of a nonpool plant from which (i) Class I milk is disposed of on routes in the marketing area; or (ii) milk is shipped to a pool plant qualified pursuant to § 1027.3(b)(1); and (3) a cooperative association with respect to the milk of any producer which it causes to be diverted in accordance with the provisions of paragraph (e) of this section from a pool plant for the account of such cooperative association.

(h) "Pool handler" means any person in his capacity as the operator of a pool plant or a cooperative association qualified as a handler pursuant to paragraph (g)(3) of this section.

(i) "Producer-handler" means any person who operates a dairy farm and a plant from which Class I milk is disposed of on route(s) in the marketing area and who during the month received no milk from any source other than his own farm production and from pool plants: *Provided,* That the maintenance, care and management of the herd and other resources necessary to production, processing, packaging and distribution of the milk are the personal enterprise and personal risk of such person.

§ 1027.3 Definitions of plants.

(a) "Plant" means the land, buildings, surroundings, facilities and equipment operated by one or more persons, constituting a single operating unit or establishment for the receiving (other than transfer from one vehicle to another), processing or packaging of milk or milk products.

(b) "Pool plant" means a plant specified in subparagraph (1), or (2) of this paragraph other than that of a producer-handler: *Provided,* That any plant qualified as a pool plant pursuant to subparagraph (2) of this paragraph in each of the months of September through February shall be a pool plant for the immediately following months of March through August unless the handler gives written notice to the market administrator on or before the first day of any such month(s) that the plant is a nonpool plant for the remaining months through August: *And provided further,* That any such plant specified in subparagraph (2) of this paragraph which was a nonpool plant during any month of September through February shall not be a pool plant in any of the immediately following months of March through August in which it is operated by the same handler, an affiliate of the handler or by any person who controls or is controlled by the handler.

(1) A plant which during the month disposes of not less than 10 percent of its total receipts of milk directly from dairy farms on routes as Class I milk in the marketing area and not less than 50 percent of such receipts as Class I milk both inside and outside the marketing area.

(2) A plant in any month of September through February in which not less than 50 percent, and in any month of March through August in which not less than 40 percent, of its receipts of milk from dairy farmers, is moved to a plant which disposes of not less than 10 percent of its receipts from dairy farms and from other plants on routes as Class I milk in the marketing area and not less than 50 percent of such receipts as Class I milk both inside and outside the marketing area: *Provided,* That in the case of a handler operating a pool plant qualified pursuant to subparagraph (1) of this paragraph and two or more plants approved by the appropriate health authority in the marketing area as a source of supply for such plant, such supply plants shall be considered as a unit (system) for purposes of plant qualification under this paragraph upon written notice to the market administrator by the handler designating the plants to be included and the period during which such designation shall apply. Such notice or notice of changes in designation shall be given on or before the first day of the first month to which such notice applies.

(c) "Nonpool plant" means any milk manufacturing, processing or bottling plant other than a pool plant.

§ 1027.4 Definitions of milk and milk products.

(a) "Fluid milk product" means milk, skim milk, buttermilk, milk drinks (plain or flavored), concentrated milk, and (except eggnog, milk shake mix, ice cream mix, evaporated and plain or sweetened condensed milk or skim milk and sterilized products in hermetically sealed containers) any mixture in fluid form of cream and milk or skim milk containing less than 12 percent butterfat and 50 percent of the quantity by weight of any such mixture containing at least 12 percent but less than 18 percent butterfat.

(b) "Producer milk" means all skim milk or butterfat contained in milk (1) received at a pool plant directly from producers, or diverted in accordance with the provisions of § 1027.2 (e) and (2) received at a pool plant from a nonpool plant up to the quantity of milk delivered to such nonpool plant by a cooperative association pursuant to § 1027.2(e)(2).

(c) "Other source milk" means all skim milk and butterfat contained in or represented by (1) receipts (including any Class II milk product produced in the handler's plant during a prior month) in a form other than as fluid milk products which are reprocessed, converted or combined with another product during the month, and (2) receipts from any source in the form of fluid milk products other than as producer milk or from pool plants and opening inventory.

(d) "Base milk" means milk received at a pool plant from a producer during any of the months of March through June which is not in excess of such producer's daily base computed pursuant to § 1027.63 multiplied by the number of days in such month on which such producer's milk was received at such pool plant: *Provided,* That with respect to any producer on every-other-day delivery, the days of nondelivery shall be considered as days of delivery for purpose of this paragraph and of § 1027.63.

(e) "Excess milk" means milk received at a pool plant from a producer during any of the months of March through June which is in excess of base milk received from such producer during such month.

Market Administrator

§ 1027.20 Designation.

The agency for the administration of this part shall be a "market administrator" selected by the Secretary. He shall be entitled to such compensation as may be determined by, and shall be subject to removal at the discretion of, the Secretary.

§ 1027.21 Powers.

The market administrator shall have the following powers with respect to this part:

(a) To administer its terms and provisions;

(b) To make rules and regulations to effectuate its terms and provisions;

(c) To receive, investigate, and report to the Secretary complaints of violations; and

(d) To recommend amendments to the Secretary.

§ 1027.22 Duties.

The market administrator shall perform all duties necessary to administer the terms and provisions of this part, including but not limited to the following:

(a) Within 45 days following the date on which he enters upon his duties, or such lesser period as may be prescribed by the Secretary, execute and deliver to the Secretary a bond, effective as of the date on which he enters upon his duties and conditioned upon the faithful performance of such duties, in an amount and with surety thereon satisfactory to the Secretary;

(b) Employ and fix the compensation of such persons as may be necessary to enable him to administer its terms and provisions;

(c) Obtain a bond in a reasonable amount and with reasonable surety thereon, covering each employee who handles funds entrusted to the market administrator;

(d) Pay out of the funds received pursuant to § 1027.88,

(1) The cost of his bond and the bonds of his employees,

(2) His own compensation, and

(3) All other expenses, except those incurred under § 1027.87, necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties;

(e) Keep such books and records as will clearly reflect the transactions provided for in this part, and, upon request by the Secretary surrender the same to such other person as the Secretary may designate;

(f) Publicly announce at his discretion, unless otherwise directed by the Secretary, by posting in a conspicuous place in his office and by such other means as he deems appropriate, the name of any person, who after the date upon which he is required to perform such acts, has not made reports pursuant to § 1027.30 or payments pursuant to §§ 1027.30 through 1027.88;

(g) Submit his books and records to examination by the Secretary, and furnish such information and reports as the Secretary may request;

(h) Verify all reports and payments of each handler, by audit, if necessary, of such handler's records and of the records of any other handler or person upon whose utilization the classification of skim milk and butterfat for such handler depends;

(i) Prepare and make available for the benefit of producers, consumers, and handlers, such general statistics and information concerning the operation of this part as do not reveal confidential information;

(j) On or before the date specified, publicly announce by posting in a conspicuous place in his office and by such other means as he deems appropriate, the following:

(1) The 5th day of each month, the Class I price computed pursuant to § 1027.50(a) for the current month, and the Class II price computed pursuant to § 1027.50(b) and the handler butterfat differentials computed pursuant to § 1027.51, both for the preceding month; and

(2) The 10th day of each month, the uniform price computed pursuant to § 1027.71, or the base and excess prices computed pursuant to § 1027.72 and the producer butterfat differential computed pursuant to § 1027.81, all for the preceding month; and

(k) On or before the 10th day after the end of each month, report to each cooperative association which so requests, the class utilization of milk purchased from such association or delivered to the pool plant(s) of each handler by producers who are members of such cooperative association. For the purpose of this report, the milk so purchased or received shall be allocated to each class in the same ratio as all producer milk received by such handler during such month.

(l) On or before February 20th of each year notify:

(1) Each cooperative association of the daily base established by each producer member of such association;

(2) Each nonmember producer of the daily base established by such producer.

REPORTS, RECORDS AND FACILITIES

§ 1027.30 Reports of receipts and utilization.

(a) On or before the 7th day after the end of each month each pool handler, shall report for each of his pool plants to the market administrator in the detail and on forms prescribed by the market administrator as follows:

(1) The quantities of skim milk and butterfat contained in, (i) receipts of producer milk (including such handler's own production), (ii) receipts of fluid milk products from other pool plants and (iii) receipts of other source milk;

(2) Inventories of fluid milk products on hand at the beginning and end of the month; and

(3) The utilization of all skim milk and butterfat required to be reported pursuant to this paragraph.

(b) Each handler operating a nonpool plant from which fluid milk products are disposed of on routes as Class I milk in the marketing area shall, unless otherwise directed by the market administrator, report for such plant at the same time and in the same manner prescribed for a pool handler in paragraph (a) of this section.

(c) Except as provided in paragraph (b) of this section each nonpool handler shall make reports to the market administrator at such time and in such manner as the market administrator may prescribe.

§ 1027.31 Other reports.

(a) Each pool handler, shall report to the market administrator in the detail and on forms prescribed by the market administrator as follows:

(1) On or before the 20th day after the end of the month, for each of his pool plants, his producer payroll for such month, which shall show for each producer: (i) His name and address, (ii) the total pounds of milk received from such producer, (iii) the average butterfat content of such milk, and (iv) the net amount of the handler's payment, together with the price paid and the amount and nature of any deduction;

(2) On or before the first day other source milk is received at his pool plant(s) in the form of any fluid milk product; his intention to receive such product and on or before the last day such product is received, his intention to discontinue receipt of such product; and

(3) Such other information with respect to receipts and utilization of butterfat and skim milk as the market administrator shall prescribe.

(b) Promptly after a producer moves from one farm to another, or starts or resumes deliveries to any of a handler's pool plants, the handler shall file with the market administrator a report stating the producer's name and post office address, the date on which the change took place, and the farm and plant location involved.

(c) Each pool handler who receives milk during the month from producers for which payment is to be made to a cooperative association pursuant to § 1027.80(b) shall on or before the 10th day after the end of each month report to such cooperative association concerning each producer-member of such cooperative association from whom he received milk during the month as follows:

(1) The name, address and code number, if any;

(2) The total deliveries and the number of days on which delivery was made;

(3) The average butterfat test of the milk delivered; and

(4) The nature and amount of any deductions to be made in payments due such producer.

(d) Each pool handler dumping skim milk pursuant to § 1027.41(b)(3) shall give the market administrator during normal duty hours, not less than three hours advance notice of intention to make such disposition and of the quantities of skim milk involved.

§ 1027.32 Records and facilities.

Each handler shall maintain and make available to the market administrator during the usual hours of business such accounts and records of his operations together with such facilities as are necessary for the market administrator to verify or establish the correct data for each month, with respect to:

(a) The receipt and utilization of all skim and butterfat handled in any form;

(b) The weights and tests for butterfat and other content of all milk and milk products handled;

(c) The pounds of skim milk and butterfat contained in or represented by all items in inventory at the beginning and end of each month required to be reported pursuant to § 1027.30(a)(2); and

(d) Payments to producers and cooperative associations, including any deductions, and the disbursement of money so deducted.

§ 1027.33 Retention of records.

All books and records required under this part to be made available to the market administrator shall be retained by the handler for a period of three years to begin at the end of the month to which such books and records pertain: *Provided,* That if within such three-year period, the market administrator notifies the handler in writing that the retention of such books and records, is necessary in connection with a proceeding under section 8c(15)(A) of the Act or a court action specified in such notice, the handler shall retain such books and records, or specified books and records, until further notification from the market administrator. In either case, the market administrator shall give further written notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

CLASSIFICATION OF MILK

§ 1027.40 Skim milk and butterfat to be classified.

All skim milk and butterfat received within the month at pool plants and which are required to be reported pursuant to § 1027.30 shall be classified by the market administrator in accordance

with the provisions of §§ 1027.41 through 1027.46.

§ 1027.41 Classes of utilization.

Subject to the conditions set forth in §§ 1027.42 to 1027.46 the classes of utilization shall be as follows:

(a) *Class I milk.* Class I milk shall be all skim milk (including that used to produce concentrated milk and reconstituted or fortified skim milk) and butterfat:

(1) Disposed of in the form of fluid milk products except as provided in paragraph (b) (2) and (3) of this section, and

(2) Not specifically accounted for as Class II milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat (1) used to produce any product other than those designated as Class I milk pursuant to paragraph (a) (1) of this section; (2) disposed of for livestock feed; (3) contained in the skim dumped if the conditions of § 1027.31(d) are met by the handler; (4) contained in inventory of fluid milk products on hand at the end of the month; (5) in actual plant shrinkage not to exceed two percent of skim milk and butterfat, respectively, in producer milk; and (6) in shrinkage of other source milk.

§ 1027.42 Shrinkage.

The market administrator shall allocate shrinkage of each pool plant as follows:

(a) Compute the total shrinkage of skim milk and butterfat, respectively; and

(b) Allocate the resulting amounts pro rata to skim milk and butterfat, respectively, in receipts of producer milk and other source milk.

§ 1027.43 Responsibility of handlers and the reclassification of milk.

(a) All skim milk and butterfat shall be Class I milk unless the handler who first receives such skim milk or butterfat proves to the market administrator that such skim milk or butterfat should be classified otherwise; and

(b) Any skim milk or butterfat shall be reclassified if verification by the market administrator discloses that the original classification was incorrect.

§ 1027.44 Transfers.

Skim milk or butterfat disposed of during the month from a pool plant shall be classified:

(a) As Class I milk if transferred in the form of any fluid milk product to the pool plant of another handler unless utilization as Class II milk is claimed in the reports submitted for both pool plants for the month to the market administrator pursuant to § 1027.30(a): *Provided,* That the skim milk or butterfat so classified as Class II milk shall be limited to the amount thereof remaining in Class II milk in the transferee plant after the allocation of other source milk pursuant to § 1027.46 and any additional amounts of such skim milk or butterfat shall be classified as Class I milk: *And provided further,* That if either or both pool plants have receipts of other source milk, the skim milk or butterfat so transferred shall be classified at both plants so as to allocate the greatest possible Class I utilization to the producer milk at both plants.

(b) As Class I milk if transferred or diverted in the form of any fluid milk product to a producer-handler.

(c) As Class I milk if transferred in packaged form to a nonpool plant in the form of any fluid milk product.

(d) As Class I milk if transferred or diverted in bulk in the form of any fluid milk product to a nonpool plant, (other than the plant of a producer-handler) to the extent of the disposition of skim milk and butterfat, respectively, from such plant on routes as Class I milk in the marketing area: *Provided,* That any remaining amount of such transfer or diversion shall be allocated to the highest utilization remaining in the transferee plant after the prior assignment of receipts at such plant from dairy farmers who the market administrator determines constitute its regular source of supply.

(e) In the class in which any equivalent volume of skim milk and butterfat in producer milk moved from a nonpool plant to a pool plant is classified if diverted to such nonpool plant pursuant to § 1027.2(e) (2).

(f) Except as provided in paragraphs (d) and (e) of this section as Class I milk if transferred or diverted in bulk in the form of any fluid milk product to a nonpool plant, located less than 300 miles from the City Hall in Baltimore, Maryland, unless (1) the handler claims Class II utilization in his report submitted pursuant to § 1027.30(a); (2) the operator of the transferee plant maintains books and records showing the utilization of all skim milk and butterfat at such plant which are made available if requested by the market administrator for the purpose of verification; and (3) an equivalent Class II utilization was available in such plant after the assignment of receipts at such plant from other Federal order plants in the class to which assigned under such other order(s): *Provided,* That if upon inspection of the records of such plant it is found that an equivalent utilization of skim milk and butterfat was not available the remaining pounds shall be classified as Class I.

(g) As Class I milk if transferred or diverted in bulk in the form of any fluid milk products to a nonpool plant located more than 300 miles from the City Hall in Baltimore, Maryland.

§ 1027.45 Computation of skim milk and butterfat in each class.

For each month, the market administrator shall correct for mathematical and for other obvious errors the reports of receipts and utilization submitted pursuant to § 1027.30(a) for each pool plant of each handler and shall compute the pounds of skim milk and butterfat in Class I milk and Class II milk for such handlers: *Provided,* That if any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk disposed of in such product shall be considered to be a quantity equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids.

§ 1027.46 Allocation of skim milk and butterfat classified.

After making the computations pursuant to § 1027.45, the market administrator shall determine the classification of producer milk received at each pool plant as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class II milk the pounds of skim milk in producer milk classified pursuant to § 1027.41(b) (5);

(2) Subtract from the remaining pounds of skim milk in each class, in series beginning with Class II milk, the pounds of skim milk in other source milk received during the month in a form other than fluid milk products;

(3) Subtract from the remaining pounds of skim milk in each class, in series beginning with Class II milk, the pounds of skim milk in other source milk received in the form of any fluid milk product from plants which are not fully subject to the pricing provisions of another order issued pursuant to the Act;

(4) Subtract from the remaining pounds of skim milk in each class, in series beginning with Class II milk, the pounds of skim milk in other source milk in bulk receipts in the form of any fluid milk product from plants which are fully subject to the pricing provisions of another order issued pursuant to the Act;

(5) Subtract from the pounds of skim milk remaining in Class II milk, in excess of the pounds of skim milk in inventory of fluid milk products on hand at the end of the month, the pounds of skim milk in inventory of such products on hand at the beginning of the month: *Provided,* That if the pounds of skim milk in such beginning inventory is greater than the remaining Class II milk utilization the difference shall be subtracted from the pounds of skim milk remaining in Class I milk;

(6) Subtract from the remaining pounds of skim milk in Class I milk the pounds of skim milk in packaged fluid milk products received from fully regulated plants under the provisions of another order issued pursuant to the Act;

(7) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk received from the pool plants of other handlers in the form of fluid milk products according to the classification determined pursuant to § 1027.44(a);

(8) Add to the remaining pounds of skim milk in Class II the pounds of skim milk subtracted pursuant to subparagraph (1) of this paragraph; and

(9) If the remaining pounds of skim milk in both classes exceed the pounds of skim milk contained in producer milk, subtract such excess from the remaining pounds of skim milk in each class in

series beginning with Class II milk. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the same procedure outlined for skim milk in paragraph (a) of this section; and

(c) Add the pounds of skim milk and the pounds of butterfat allocated to producer milk in each class computed pursuant to paragraphs (a) and (b) of this section and determine the weighted average butterfat content of each class.

MINIMUM PRICES

§ 1027.50 Class prices.

Subject to the provisions of §§ 1027.51 and 1027.52 each handler shall pay, at the time and in the manner set forth in § 1027.80 for each hundredweight of milk containing 3.5 percent butterfat received at his pool plant(s) during the month from producers or a cooperative association not less than the following prices per hundredweight for the respective quantities of milk in each class computed pursuant to § 1027.46.

(a) *Class I price.* During the first 18 months from the effective date of this part the price for Class I milk shall be $5.55 for the months of July through February and $5.10 for the months of March through June: *Provided,* That such price in any month shall be adjusted to reflect the deviation of the average of the Federal order Class I prices for the Philadelphia, New York and Chicago markets for such month from such average price in the corresponding month of 1958, as follows:

Three-market average deviation from corresponding month of 1958 (cents), plus or minus:	*Class I price adjustment (cents) plus or minus*
0–15	0
15.1–35	20
35.1–55	40
55.1–75	60
75.1–95	80

(b) *Class II price.* The price for Class II milk shall be the sum of the values of butterfat and skim milk computed as follows:

(1) *Butterfat.* Add all weekly quotations per 40-quart can of 40 percent sweet cream approved for Pennsylvania and New Jersey in the Philadelphia market as reported each week ending within the month by the Department, divide by the number of quotations, subtract $2.00, divide by 33.48, multiply by 3.5: *Provided,* That such butterfat value shall not be less than 3.5 times 120 percent of the average Grade A (92-score) butter price at New York as reported by the Department for the month for which payment is to be made less 17 cents;

(2) *Skim milk.* The average of carlot prices per pound for nonfat dry milk, spray and roller process, respectively, for human consumption, f.o.b. manufacturing plants in the Chicago area, as reported for the period from the 26th day of the preceding month through the 25th day of the current month by the Department shall determine the skim values as follows:

Average price per pound of nonfat dry milk (spray and roller process)	*Skim value*
$0.0065 or below	
$0.066–$0.075	$0.675
$0.076–$0.085	.150
$0.086–$0.095	.225
$0.096–$0.105	.300
$0.106–$0.115	.375
$0.116–$0.125	.450
$0.126–$0.135	.525
$0.136–$0.145	.600
$0.146–$0.155	.675
$0.156–$0.165	.750
$0.166–$0.175	.825
$0.176–$0.185	.900
$0.186–$0.195	.975

§ 1027.51 Butterfat differentials to handlers.

For milk containing more or less than 3.5 percent butterfat, the class prices pursuant to § 1027.50 shall be increased or decreased, respectively, for each one-tenth of one percent butterfat content variation from 3.5 percent, by the appropriate rate, rounded to the nearest one-tenth cent, determined as follows:

(a) *Class I milk.* Add all weekly quotations per 40-quart can of 40 percent fresh sweet cream, approved for Pennsylvania and New Jersey, in the Philadelphia market as reported each week ending within the month by the Department, divide by the number of quotations and divide the resulting amount by 334.8: *Provided,* That if the result is less than the Class II differential determined pursuant to paragraph (b) in this section, such Class II differential shall also be applicable to Class I milk; and

(b) *Class II milk.* Divide by 35 the butterfat value determined pursuant to § 1027.50(b)(1).

§ 1027.52 Location differentials to handlers.

For that milk received from producers at a pool plant located 75 miles or more from the nearer of the City Hall in Baltimore or the Courthouse in Salisbury, Maryland, by the shortest hard-surfaced highway distance as determined by the market administrator, and which is assigned to Class I milk, the price specified in § 1027.50(a) shall be reduced 12 cents per hundredweight plus an additional 1.5 cents for each additional 10 miles or fraction thereof in excess of 75 miles: *Provided,* That for the purpose of calculating such location differential, products designated as Class I milk which are transferred between pool plants shall be assigned first to any remainder of Class II milk in the transferee plant after making the allocations prescribed in § 1027.46(a) (1) through (5) and the corresponding steps in § 1027.46(b) for such plant, such assignment to the transferor plant to be made in sequence beginning with the plant where the largest location differential is applicable.

§ 1027.53 Use of equivalent price or index.

If for any reason a price quotation or index required by this part for computing class prices or for any other purpose is not available in the manner described, the market administrator shall use a price determined by the Secretary to be equivalent to the price or index which is required.

APPLICATION OF PROVISIONS

§ 1027.60 Producer-handler.

Sections 1027.40 through 1027.46, 1027.50 through 1027.52, 1027.62 through 1027.64, 1027.70 through 1027.72, 1027.80 through 1027.89 shall not apply to a producer-handler.

§ 1027.61 Plants subject to other Federal orders.

A plant specified in paragraph (a) or (b) of this section shall be considered as a nonpool plant except that the operator of such plant shall, with respect to the total receipts and utilization or disposition of skim milk and butterfat at the plant, make reports to the market administrator at such time and in such manner as the market administrator may require and allow verification of such reports by the market administrator.

(a) Any plant qualified pursuant to § 1027.3(b)(1) which would otherwise be subject to the classification and pricing provisions of another order issued pursuant to the Act unless a greater volume of Class I milk is disposed of from such plant on routes in this marketing area than in a marketing area pursuant to such other order.

(b) Any plant qualified pursuant to § 1027.3(b)(2) which would otherwise be subject to the classification and pricing provisions of another order issued pursuant to the Act unless such plant qualified as a pool plant pursuant to the first proviso in § 1027.3(b) for each month during the preceding September through February.

§ 1027.62 Payments on other source milk.

On or before the 11th day after the end of each month, handlers shall make payments to producers through the producer-settlement fund as follows:

(a) Each pool handler who received other source milk which is allocated to Class I pursuant to § 1027.46 (a)(2) and (b) shall make payment on the quantity so allocated at the difference between the Class II price and the Class I price applicable at the location of his pool plant qualified pursuant to § 1027.3 (b)(1).

(b) Each pool handler who received other source milk which is allocated to Class I pursuant to § 1027.46 (a)(3) and (b) shall make payment on the quantity so allocated at the difference between the Class I price and the Class II price applicable at the location of the nearest nonpool plant(s) (as determined by the application of the location differential rate pursuant to § 1027.52) from which an equivalent amount of such other source milk was received.

(c) Each pool handler who received other source milk which is allocated to Class I pursuant to § 1027.46 (a)(4) or (6) and (b), which milk was not classified and priced as Class I milk under such other Federal order, shall make payment on the quantity of such milk at the dif-

ference between the Class I price and the Class II price applicable at the location of the nearest other Federal order plant(s) (as determined by the application of the location differential rate presented in § 1027.52) from which an equivalent amount of such other source milk was received.

(d) Each handler operating a nonpool plant which is not subject to the classification and pricing provisions of another order issued pursuant to the Act, and from which Class I milk is disposed of on routes in the marketing area during the month, shall make payment on the quantity of skim milk and butterfat so disposed of which is in excess of his receipts of skim milk and butterfat, respectively, from pool plants at the difference between the Class I price and the Class II price applicable at the location of such plant.

(e) Each handler operating a nonpool plant which is subject to the classification and pricing provisions of another order issued pursuant to the Act, and from which Class I milk is disposed of on routes in the marketing area during the month shall make payment on any quantity of skim milk and butterfat so disposed of which was not classified and priced as Class I under such other order, at the difference between the Class I and Class II price applicable at the location of such plant.

§ 1027.63 Computation of base for each producer.

For each of the months of March through June of each year the market administrator shall compute a base for each producer as follows, subject to the rules set forth in § 1027.64:

(a) Divide the total pounds of milk received by a pool handler(s) from such producer during the months of July through December immediately preceding by the number of days of such producer's delivery in such period, but not less than 154 days: *Provided,* That for purposes of determining bases to be effective during the March–June period 1960, records of receipts at plants and records of the cooperative associations satisfactory to the market administrator, shall be used for the period July 1 to the effective date of this part in conjunction with reported receipts by pool handlers for the remainder of the period through December 1959: *And provided further,* That in the case of a producer on every-other-day delivery, the days of nondelivery shall be considered days of delivery for purposes of this section.

§ 1027.64 Base rules.

The following rules shall apply in connection with the establishment of bases:

(a) A base computed pursuant to § 1027.63 may be transferred in its entirety upon written notice to the market administrator on or before the last day of the month of transfer, but only if a producer sells, leases or otherwise conveys his herd to another producer and it is established to the satisfaction of the market administrator that the conveyance of the herd was bona fide and not for the purpose of evading any provision of this part;

(b) If a producer operates more than one farm, each delivering milk to a pool plant, he shall establish a separate base with respect to producer milk delivered from each such farm.

(c) Only one base shall be allotted with respect to milk produced by one or more persons where the herd, land, buildings, and equipment used are jointly owned or operated: *Provided,* That if a base is held jointly, the entire base shall be transferable only upon the receipt of an application signed by all joint holders or their heirs, or assigns;

§ 1027.70 Computation of the value of producer milk for each handler.

For each month, the market administrator shall compute the value of producer milk for each pool handler as follows:

(a) Multiply the pounds of producer milk in each class computed pursuant to § 1027.46 by the applicable class price and total the resulting amounts.

(b) Add the amount of any payments due from such handler pursuant to § 1027.62 (a), (b) and (c).

(c) Add the amounts computed by multiplying the pounds of "overage" deducted from each class pursuant to § 1027.46 (a)(9) and (b) by the applicable class price.

(d) Add the amount computed by multiplying the difference between the appropriate Class II price for the preceding month and the appropriate Class I price for the current month by the hundredweight of producer milk classified in Class II during the preceding month less allowable shrinkage allocated pursuant to § 1027.46 (a)(1) and (b) in such month, or the hundredweight of milk subtracted from Class I pursuant to § 1027.46 (a)(5) and (b) for the current month, whichever is less;

(e) Add the amount computed by multiplying the difference between the appropriate Class II price for the preceding month and the appropriate Class I price for the current month by the hundredweight of milk allocated to Class I pursuant to § 1027.46 (a)(5) and (b) for the current month which is in excess of (1) the hundredweight of milk for which an adjustment was made pursuant to paragraph (d); and (2) the hundredweight of milk assigned to Class II pursuant to § 1027.46 (a)(4) and (b) for the previous month and which was classified and priced as Class I under the other Federal order; and

(f) Add or subtract, as the case may be, an amount necessary to correct errors discovered by the market administrator in the verification of reports of such handler of his receipts and utilization of skim milk and butterfat for previous months.

§ 1027.71 Computation of the uniform price.

For each of the months of July through February, the market administrator shall compute the uniform price per hundredweight of producer milk of 3.5 percent butterfat content, f.o.b. market as follows:

(a) Combine into one total the net obligations computed pursuant to § 1027.70 for all handlers who made reports prescribed in § 1027.30(a) for the month who were not in default of payments pursuant to § 1027.84 for the preceding month;

(b) Subtract, if the weighted average butterfat content of producer milk in paragraph (a) is greater than 3.5 percent, or add, if such average butterfat content is less than 3.5 percent an amount computed by multiplying the amount by which the average butterfat content of such milk varies from 3.5 percent by the producer butterfat differential computed pursuant to § 1027.81 and multiply the resulting figure by the total hundredweight of such milk;

(c) Add an amount equal to the sum of deductions to be made from producer payments for location differentials pursuant to § 1027.82;

(d) Add an amount equal to not less than one-half of the unobligated balance on hand in the producer-settlement fund;

(e) Divide the resulting amount by the total hundredweight of producer milk included under paragraph (a) in this section; and

(f) Subtract not less than 4 cents nor more than 5 cents from the amount computed pursuant to paragraph (e) of this section.

§ 1027.72 Price for base milk and excess milk.

For each of the months of March through June the price for base milk and excess milk of 3.5 percent butterfat content, f.o.b. market, shall be as follows:

(a) The price for excess milk shall be the Class II price computed pursuant to § 1027.50(b); and

(b) The price for base milk shall be the price computed by the market administrator as follows:

(1) Make the same computations as required pursuant to § 1027.71(a) through (d);

(2) Subtract from the resulting value an amount computed by multiplying the total hundredweight of excess milk by the excess price pursuant to paragraph (a) in this section;

(3) Divide the value obtained pursuant to subparagraph (2) in this paragraph by the total hundredweight of base milk; and

(4) Subtract from the resulting amount not less than 4 cents nor more than 5 cents.

PAYMENTS

§ 1027.80 Time and method of payment.

(a) Except as provided in paragraph (b) of this section each pool handler on or before the 15th day after the end of each month shall make payment to each producer for milk which was received from such producer during the month at not less than the uniform price computed pursuant to § 1027.71 for the months of July through February and at not less than the price for base milk computed pursuant to § 1027.72(b) with respect to base milk received from such producer, and not less than the excess price determined pursuant to § 1027.72(a) for excess milk received from such producer for the months of March through June subject to the following adjustments: (1) The butterfat differential computed

pursuant to § 1027.31, (2) less the location differential computed pursuant to § 1027.82, and (3) less proper deductions authorized in writing by such producer: *Provided,* That if by such date such handler has not received full payment from the market administrator pursuant to § 1027.85 for such month, he may reduce pro rata his payments to producers by not more than the amount of such underpayment. Payment to producers shall be completed thereafter not later than the date for making payments pursuant to this paragraph next following after receipt of the balance due from the market administrator;

(b) In the case of a cooperative association which the market administrator determines is authorized by its producer-members to collect payment for their milk and which has so requested any handler in writing, such handler shall on or before the second day prior to the date on which payments are due individual producers, pay the cooperative association for milk received during the month from the producer-members of such association as determined by the market administrator, an amount not less than the total due such producer-members as determined pursuant to paragraph (a) of this section;

(c) In the case of milk received by a handler from a cooperative association in its capacity as a handler such handler shall on or before the second day prior to the date on which payments are due individual producers, pay to such cooperative association for milk so received during the month, an amount not less than the value of such milk computed at the applicable class prices for the location of the plant of the buying handler.

§ 1027.81 Producer butterfat differential.

In making payments pursuant to § 1027.80 (a) or (b), the uniform prices and the price for base and for excess milk shall be adjusted for each one-tenth of one percent of butterfat content in the milk of each producer above or below 3.5 percent, as the case may be, by a butterfat differential equal to the average of the butterfat differentials determined pursuant to § 1027.51 (a) and (b) weighted by the pounds of butterfat in producer milk in each class and rounded to the nearest full cent.

§ 1027.82 Location differential to producers.

In making payments to producers or to a cooperative association pursuant to § 1027.80(a) and in making payment for base milk pursuant to § 1027.80(b) a handler shall deduct with respect to all such milk received at pool plants located 75 miles by shortest highway distance from the nearer of the City Hall, Baltimore, Maryland, or the Courthouse, Salisbury, Maryland, as determined by the market administrator, 12 cents per hundredweight plus 1.5 cents for each additional 10-mile distance, or fraction thereof, which such plant is located from such point.

§ 1027.83 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to §§ 1027.62, 1027.84 and 1027.86 and out of which he shall make all payments pursuant to §§ 1027.85 and 1027.86; *Provided,* That the market administrator shall offset any such payment due to any handler against payment due from such handler.

§ 1027.84 Payments to the producer-settlement fund.

On or before the 11th day after the end of each month, each handler, including a cooperative association which is a handler, shall pay to the market administrator for payment to producers through the producer-settlement fund the amount by which the net pool obligation of such handler is greater than the sum required to be paid producers by such handler pursuant to § 1027.80 (a) and (b).

§ 1027.85 Payments out of the producer-settlement fund.

On or before the 12th day after the end of the month, the market administrator shall pay to each handler for payment to producers the amount by which the sum required to be paid producers by such handler pursuant to § 1027.80 (a) and (b) is greater than the net pool obligations of such handler: *Provided,* That if the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds are available.

§ 1027.86 Adjustment of accounts.

Whenever verification by the market administrator of reports or payments of any handler discloses errors resulting in money due (a) the market administrator from such handler, (b) such handler from the market administrator, or (c) any producer or cooperative association from such handler, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payments set forth in the provisions under which such error occurred.

§ 1027.87 Marketing services.

(a) Except as set forth in paragraph (b) of this section, each handler, in making payments directly to producers for milk (other than milk of his own production) pursuant to § 1027.80(a) shall deduct 5 cents per hundredweight or such lesser amount as the Secretary may prescribe and shall pay such deductions to the market administrator on or before the 18th day after the end of the month. Such money shall be expended by the market administrator to provide market information and to verify the weights, samples and tests of milk of producers who are not receiving such service from a cooperative association; and

(b) In the case of producers for whom the Secretary determines a cooperative association is actually performing the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deduction specified in paragraph (a) of this section, such deductions from the payments to be made directly to such producers pursuant to § 1027.80(a) as are authorized by such producers on or before the 18th day after the end of each month and pay such deductions to the cooperative rendering such services.

§ 1027.88 Expense of administration.

As his pro rata share of the expense of administration of this part, each handler, including any cooperative association which is a handler, shall pay to the market administrator on or before the 18th day after the end of the month, 5 cents per hundredweight or such lesser amount as the Secretary may prescribe for each hundredweight of skim milk and butterfat contained in (a) producer milk (including such handler's own farm production), (b) other source milk at a pool plant which is allocated to Class I milk pursuant to § 1027.46(a) (2), (3) and (b), or (c) Class I milk for which a payment is due pursuant to § 1027.62(d).

§ 1027.89 Termination of obligations.

The provisions of this section shall apply to any obligation under this part for the payment of money.

(a) The obligation of any handler to pay money required to be paid under the terms of this part shall, except as provided in paragraphs (a) and (c), terminate two years after the last day of the month during which the market administrator receives the handler's utilization report on the milk involved in such obligation, unless within such two-year period the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall be complete upon mailing to the handler's last known address, and it shall contain but need not be limited to, the following information:

(1) The amount of the obligation;

(2) The month(s) during which the milk, with respect to which the obligation exists, was received or handled; and

(3) If the obligation is payable to one or more producers or to an association of producers, the name of such producer(s) or association of producers, or if the obligation is payable to the market administrator, the account for which it is to be paid;

(b) If a handler fails or refuses, with respect to any obligation under this part, to make available to the market administrator or his representatives all books and records required by this part to be made available, the market administrator may, within the two-year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler, the said two-year period with respect to such obligation shall not begin until the first day of the month following the month during which all such books and records pertaining to such obligations are made available to the market administrator or his representatives;

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a

handler's obligation under this part to pay money shall not be terminated with respect to any transaction involving fraud or willful concealment of a fact, material to the obligation on the part of the handler against whom the obligation is sought to be imposed; and

(d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this part shall terminate two years after the end of the month during which the milk involved in the claim was received if an underpayment is claimed, or two years after the end of the month during which the payment (including deduction or set off by the market administrator) was made by the handler if a refund on such payment is claimed, unless such handler, within the applicable period of time files, pursuant to section 8c(15)(A) of the Act, a petition claiming such money.

EFFECTIVE TIME, SUSPENSION, OR TERMINATION

§ 1027.90 Effective time.

The provisions of this part, or any amendment to this part, shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated, pursuant to § 1027.91.

§ 1027.91 Suspension or termination.

The Secretary may suspend or terminate this part or any provision of this part, whenever he finds that this part or any provision of this part, obstructs, or does not tend to effectuate the declared policy of the Act. This part shall terminate, in any event, whenever the provisions of the Act authorizing it cease to be in effect.

§ 1027.92 Continuing obligations.

If under the suspension or termination of any or all provisions of this part, there are any obligations thereunder, the final accrual or ascertainment of which requires further acts by any person (including the market administrator), such further acts shall be performed notwithstanding such suspension or termination.

§ 1027.93 Liquidation.

Upon the suspension or termination of the provisions of this part, except this section, the market administrator, or such liquidating agent as the Secretary may designate, shall, if so directed by the Secretary, liquidate the business of the market administrator's office, dispose of all property in his possession or control, including accounts receivable, and execute and deliver all assignments or other instruments necessary or appropriate to effectuate any such disposition. If the liquidating agent is so designated, all assets, books and records of the market administrator shall be transferred promptly to such liquidating agent. If, upon such liquidation, the funds on hand exceed the amounts required to pay outstanding obligations of the office of the market administrator and to pay necessary expenses of liquidation and distribution, such excess shall be distributed to contributing handlers and producers in an equitable manner.

MISCELLANEOUS PROVISIONS

§ 1027.100 Agents.

The Secretary may by designation in writing name any officer or employee of the United States to act as his agent or representative in connection with any of the provisions of this part.

§ 1027.101 Separability of provisions.

If any provision of this part, or its application to any person or circumstances is held invalid, the application of such provision and of the remaining provisions of this part, to other persons or circumstances shall not be affected thereby.

Issued at Washington, D.C., this 15th day of September 1959.

ROY W. LENNARTSON,
Deputy Administrator.

[F.R. Doc. 59-7785; Filed, Sept. 17, 1959; 8:49 a.m.]

DEPARTMENT OF LABOR

Office of the Secretary

[29 CFR Part 9]

SAFETY AND HEALTH REGULATIONS FOR LONGSHORING

Notice of Hearings

Pursuant to section 4 of the Administrative Procedure Act (60 Stat. 238; 5 U.S.C. 1003), and under the authority of 72 Stat. 835 which recently amended section 41 of the Longshoremen's and Harbor Workers' Compensation Act (44 Stat. 1444, 33 U.S.C. 941), notice is hereby given that the Secretary of Labor proposes to implement the said amendment to the Longshoremen's and Harbor Workers' Compensation Act, as he is therein directed and authorized, by issuing safety and health regulations applicable to employment and places of employment in the Longshoring industry.

In order that interested persons may have opportunity to participate in the rule making process, notice is also given that public hearings to receive the data, views and arguments of interested persons will be held before a duly assigned Hearing Examiner on October 8, 1959, beginning at 10:00 a.m. local time, in Room 600, U.S. Courthouse, 219 South Clark Street, Chicago, Illinois; on October 13, 1959, beginning at 10:00 a.m. local time, in Room 539, Appraisers Building, 630 Sansome Street, San Francisco, California; on October 26, 1959, beginning at 10:00 a.m. local time, in Room 503, Federal Office Building, 600 South Street, New Orleans, Louisiana; and on November 2, 1959, beginning at 10:00 a.m. local time, in Room 4500 General Post Office, 8th Avenue and 33d Street, New York, New York.

The basis and purpose of the proposed regulations are, as set out in 72 Stat. 835, to require that "Every employer shall furnish and maintain employment and places of employment which shall be reasonably safe for his employees in all employments covered by this Act and shall install, furnish, maintain, and use such devices and safeguards with particular reference to equipment used by and working conditions established by such employers as the Secretary may determine by regulation or order to be reasonably necessary to protect the life, health, and safety of such employees, and to render safe such employment and places of employment, and to prevent injury to his employees."

The subjects and issues involved in the proposed regulations and concerning which data, views, and arguments are invited for presentation at the hearings herein noticed, are the appropriateness of proposed standards of governing:

1. Basic specifications for gangways and other means of access and the requirement that merchant vessels must have valid cargo gear certificates or certificates of inspection issued by the U.S. Coast Guard before an employer can use the gear.

2. Safe rigging of gangways, prescription of the type and rigging of Jacobs' ladders, specification of types of access to barges and requirements as to minimum number of safe ladders, for access to holds.

3. Provisions for safe walkways, hatch covers, temporary tables, and skeleton decks and for protection against falling from elevated working surfaces.

4. Protection for men opening hatches, specifications for beam and pontoon bridles, safe placing of beams and pontoons removed, and the securing of those left in place or which open on hinges to a nearly vertical position.

5. Prohibition on overloading of gear and the use of defective gear, and specific requirements to be met before the following items of gear are used: Preventers, stoppers, falls, hull blocks, coaming rollers, cargo hooks and steam and electric winches.

6. Inspection and maintenance of all gear and the testing of special items of gear before being put into use, safe working loads, which may not be exceeded for manila rope and slings, wire rope and slings, chain and chain slings, shackles and hooks. Requirements for pallets and bridles to handle them, conveyors of various types, portable stowing winches, bridge plates and ramps, tools and powered vehicles are covered, including the grounding of electrically powered tools and equipment, and required notification to ships' officers before bringing aboard or using powered tools or equipment.

7. Safety precautions to be taken in slinging cargo, building drafts, tiering and breaking down cargo and hulling cargo.

8. Requirements for safe working conditions in respect to housekeeping, illumination, ventilation, sanitation and drinking water, first aid and life saving equipment to be provided at work locations, specification of minimum knowledge and physical requirements for operators of hoisting and automotive equipment, and prohibition on the employment of minors under 18 years of age in most operations.

9. Specification of personal protective equipment to be provided or made available under certain conditions including eye, head, feet and respiratory protective equipment and protective clothing

and the maintenance, use and limitations of this equipment.

Any interested person desiring to participate in such hearings shall file a notice of intention with the Secretary of Labor, by transmitting it to the Chief Hearing Examiner, Room 4414, U.S. Department of Labor, 14th Street and Constitution Avenue NW., Washington 25, D.C., not later than ten days before the scheduled date of the particular hearing in which he proposes to participate. The notice of intention shall state the name and address of the person, specify his interest, whether he wishes to present his data, views and arguments orally or in writing, and if orally the amount of time he requires for such purpose, and the identification of counsel or other representative if the oral presentation is not to be made in person. Written material which is supplemental to an oral presentation must be filed in quadruplicate with the Hearing Examiner at the time of presentation.

Interested persons, in lieu of personal appearance, may submit written data, views and arguments in quadruplicate to the Secretary of Labor at the aforementioned address, not later than five days before the scheduled date of the particular hearing for which submitted. Such written submissions, timely received, will be transmitted to the Hearing Examiner for incorporation into the record of such hearing.

The hearings shall be reported, and transcripts will be available to any interested person on such terms as the Hearing Examiner may provide. The Hearing Examiner shall regulate the course of the hearings, dispose of procedural requests, objections and comparable matter, and confine the hearings to matters pertinent to the noticed subjects and issues. He shall have discretion to keep the record open for a reasonable stated time after each hearing to receive written proposals and supporting reasons, or additional data, views and arguments from persons who have participated.

Upon completion of the hearings, the transcript of each hearing, exhibits, written submissions and all posthearing proposals and supporting reasons shall be certified by the Hearing Examiner to the Secretary of Labor. The Secretary of Labor will give careful consideration to all relevant matter thus presented to him, together with such other information that may be available to him and will, thereafter issue appropriate regulations by publication thereof in the FEDERAL REGISTER to be effective not earlier than 30 days after the date of such publication.

The proposed regulations in this matter are filed with the Federal Register as part of this document and are available to any interested person and will be furnished without charge on written request addressed to the Secretary of Labor, U.S. Department of Labor, 14th Street and Constitution Avenue NW., Washington 25, D.C.

Signed at Washington, D.C., this 14th day of September 1959.

JAMES P. MITCHELL,
Secretary of Labor.

[F.R. Doc. 59-7773; Filed, Sept. 17, 1959; 8:48 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 120]

TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Notice of Filing of Petition for Establishment of Tolerances for Residues of 1-Naphthyl N-Methylcarbamate

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), the following notice is issued:

A petition has been filed by Union Carbide Chemicals Company, Division of Union Carbide Corporation, 180 South Broadway, White Plains, New York, proposing the establishment of a tolerance of 10 parts per million for residues of 1-naphthyl *N*-methylcarbamate in or on each of the raw agricultural commodities, cherries, plums (fresh prunes), and strawberries.

The analytical method proposed in the petition for determining residues of 1-naphthyl *N*-methylcarbamate is that described in the FEDERAL REGISTER of January 9, 1959 (24 F.R. 238).

Dated: September 11, 1959.

[SEAL] ROBERT S. ROE,
Director, Bureau of Biological and Physical Sciences.

[F.R. Doc. 59-7760; Filed, Sept. 17, 1959; 8:47 a.m.]

FEDERAL AVIATION AGENCY

[14 CFR Part 507]

[Regulatory Docket No. 120]

AIRWORTHINESS DIRECTIVES

Notice of Proposed Rule Making

SEPTEMBER 14, 1959.

Pursuant to the authority delegated to me by the Administrator (§ 405.27, 24 F.R. 2196), notice is hereby given that the Federal Aviation Agency has under consideration a proposal to amend Part 507 of the Regulations of the Administrator to include an airworthiness directive requiring corrective action involving certain Boeing 707 aircraft.

Interested persons may participate in the making of the proposed rule by submitting such written data, views or arguments as they may desire. Communications should be submitted in duplicate to the Docket Section, Federal Aviation Agency, Room B-316, 1711 New York Avenue NW., Washington 25, D.C. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received. All comments submitted will be available for examination by interested persons in the Docket Section when the prescribed time for return of comments has expired. This proposal will not be given further distribution as a draft release.

This amendment is proposed under the authority of sections 313(a), 601 and 603 of the Federal Aviation Act of 1958 (72 Stat. 752, 775, 776; 49 U.S.C. 1354(a), 1421, 1423).

In consideration of the foregoing, it is proposed to amend § 507.10(a) by adding the following airworthiness directive:

BOEING. Applies to the following 707-100 Series aircraft only: Serial Numbers 17586 through 17591, 17609, 17610, 17628 through 17641, 17659 through 17666, 17925, 17926.

Compliance required within 30 days after the effective date of this directive unless already completed.

Service experience has shown that it is possible for the inboard aileron balance panel end seals to loosen and restrict movement of the aileron on some Boeing 707 aircraft. Therefore, certain modification(s) are to be accomplished.

(a) Remove the inboard aileron balance bay access panels on the wing lower surfaces and detach aft end of balance panel from aileron.

(b) Delete felt end seals 5-87140-8 and washer BAC-WIOP-69S (8 places) and retaining screw NAS514P-632-8, washer AN960-6 and nut (16 places). Open holes are satisfactory.

(c) Trim 1.60 inches from each end of the full length fabric hinge seal 9-64838-3 (inboard) and 9-64838-4 (outboard).

(d) Delete felt end seals 3-94377-1 (8 places).

(e) Trim 1.0 inch from each end of the full length fabric hinge seal 9-64838-1 (inboard) and 9-64838-2 (outboard).

NOTE: The fabric seals per (c) and (e) above, are located beneath the deleted felt end seals per (b) and (d) respectively, and in each case are trimmed back to the sewn sleeve for the fabric seal retainer pins.

(f) Inspect and replace any damaged nuts and nutplates from which bolts were removed.

(g) Delete spacer washer AN960DI0 (8 places).

(h) Reassemble, using shorter bolts to compensate for parts deleted or modified.

(i) Check for proper operation of inboard ailerons.

(j) Reinstall access panels.

(Boeing Service Bulletin No. 245 pertains to this same subject.)

Issued in Washington, D.C., on September 14, 1959.

WILLIAM B. DAVIS,
Director,
Bureau of Flight Standards.

[F.R. Doc. 59-7751; Filed, Sept. 17, 1959; 8:46 a.m.]

NOTICES

DEPARTMENT OF THE TREASURY

Office of the Secretary

[AA 643.3]

INVISIBLE ZIPPERS FROM JAPAN

Determination of No Sales at Less Than Fair Value

SEPTEMBER 11, 1959.

A complaint was received that invisible zippers from Japan were being sold to the United States at less than fair value within the meaning of the Antidumping Act of 1921.

I hereby determine that invisible zippers from Japan are not being, nor are likely to be, sold in the United States at less than fair value within the meaning of section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)).

Statement of reasons. The identical zippers imported from Japan are sold for home consumption in Japan. Accordingly, home consumption price is the standard prescribed for fair value purposes.

It was found that the purchase price was not less than the home market price, after making adjustments for discounts peculiar to each market, inland freight, shipping charges, and credit terms.

This determination and the statement of reasons therefor are published pursuant to section 201(c) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(c)).

[SEAL] A. GILMORE FLUES,
Acting Secretary of the Treasury.

[F.R. Doc. 59-7781; Filed, Sept. 17, 1959; 8:49 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

ALASKA

Notice of Proposed Withdrawal and Reservation of Lands

The Bureau of Land Management has filed an application, Serial Number 049689 for the withdrawal of the lands described below, from all forms of appropriation under the public land laws, including the mining laws but excluding the mineral leasing laws and the disposition of materials under the Materials Act. The applicant desires the land for public recreation sites.

For a period of 60 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, Anchorage Operations Office, Mailing: 334 East Fifth Avenue, Anchorage, Alaska.

If circumstances warrant it, a public hearing will be held at a convenient time and place, which will be announced.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

The lands involved in the application are:

KNIK RIVER

T. 16 N., R. 2 E., S.M.,
Sec. 1; Lots 1, 2, 3.
Containing 78.17 acres.

BEAR LAKE

T. 16 N., R. 1 W., S.M.,
Sec. 35: Lot 5.
Containing 24.93 acres.

LOWER FIRE LAKE

T. 15 N., R. 2 W., S.M.,
Sec. 25: Lot 6.
Containing 9.9 acres.

GLACIER CREEK

U.S. Survey No. 3042,
Lot 71.
Containing 172.74 acres.

KASILOF ABORIGINAL SITE

T. 4 N., R. 11 W., S.M.,
Sec. 21: SE¼SW¼, SW¼SE¼;
Sec. 28: NE¼NW¼, NW¼NE¼.
Containing 160 acres.

KALIFONSKY BEACH

T. 4 N., R. 12 W, S.M.,
Sec. 24: Lots 4, 16–19 inc., NW¼SW¼.
Containing 101.77 acres.
T. 5 N., R. 11 W., S.M.,
Sec. 30: Lots 5–9 inc.
Containing 26.15 acres.

Aggregating 573.66 acres.

L. T. MAIN,
Operations Supervisor, Anchorage.

[F.R. Doc. 59-7767; Filed, Sept. 17, 1959; 8:47 a.m.]

Bureau of Mines

[Bureau of Mines Manual, Delegations Series]

PRODUCTION AND DISTRIBUTION OF HELIUM GAS

Redelegation of Authority To Execute Contracts

Paragraph 215.2.2, Bureau of Mines Manual, Redelegation of Authority To Execute Contracts for the Production and Distribution of Helium Gas, is hereby amended as follows:

The last sentence is deleted, and the following substituted therefor: "The above authority may, by written order published in the FEDERAL REGISTER, be redelegated to the General Manager, Helium Operations, and is subject to the fiscal limitations set forth in subparagraph 205.2.4A(1) (21 F.R. 1205) (see subparagraphs 215.1.1E and 215.1.1F)."

MARLING J. ANKENY,
Director, Bureau of Mines.

[F.R. Doc. 59-7768; Filed, Sept. 17, 1959; 8:48 a.m.]

GENERAL MANAGER, HELIUM OPERATIONS

[Administrative Order No. 8]

Redelegation of Authority To Execute Contracts for Production and Distribution of Helium Gas

Pursuant to the authority redelegated in paragraph 215.2.2, Bureau of Mines Manual, the General Manager, Helium Operations, is hereby redelegated the authority to make negotiated purchases or contracts for supplies and services necessary for the production and distribution of helium gas, subject to the provisions outlined in the above Manual paragraph.

The above authority may not be redelegated, and is subject to the fiscal limitations set forth in Manual subparagraph 205.2.4A(1).

Dated: September 11, 1959.

HENRY P. WHEELER, Jr.,
Assistant Director, Helium.

[F.R. Doc. 59-7769; Filed, Sept. 17, 1959; 8:48 a.m.]

DEPARTMENT OF COMMERCE

Bureau of Foreign Commerce

[File 23-655]

ORIENTAL TRADING CO., LTD., ET AL.

Order Extending Order Temporarily Denying Export Privileges and Denying Respondents' Motion To Vacate

In the matter of Oriental Trading Company, Ltd., sometimes known as Toyo Boeki K. K. or Toyo Trading Company, 15 Akasaka Tameike-cho, Minato-ku, Tokyo, Japan, and Koji Kitahara, Kazushige Masatsugo, 15 Akasaka Tameike-cho, Minato-ku, Tokyo, Japan, File 23-655; Respondents.

The respondents, Oriental Trading Company, Ltd., sometimes known as Toyo Boeki K. K. or Toyo Trading Company, and Koji Kitahara and Kazushige Masatsugo, having filed a motion to have vacated the order dated July 31, 1959 (24 F.R. 6274, August 5, 1959), which temporarily denied to them all privileges of participating in exportations from the United States, and the Director, Investigation Staff, having moved for an extension of the said order until the completion of the compliance proceeding which has been commenced against the respondents, said motions were referred to the Compliance Commissioner, who has submitted his Report thereon and has recommended that respondents' motion be denied and that the Director's motion be granted.

Now, after careful consideration of the record herein, and having concluded that the continued denial of export privileges to the respondents and parties related to

them is reasonably necessary to protect the public interest, it is, this 14th day of September, 1959, hereby ordered:

1. That the motion by the respondents to vacate the temporary denial order be, and the same hereby is denied.

2. That the order of July 31, 1959, denying to the respondents all privileges of participating in exportations from the United States be, and the same hereby is extended to and including the completion of the compliance proceeding which has been commenced against them.

JOHN C. BORTON,
Director,
Office of Export Supply.

[F.R. Doc. 59-7783; Filed, Sept. 17, 1959; 8:49 a.m.]

DEPARTMENT OF LABOR

Wage and Hour Division

LEARNER EMPLOYMENT CERTIFICATES

Issuance to Various Industries

Notice is hereby given that pursuant to section 14 of the Fair Labor Standards Act of 1938 (52 Stat. 1060, as amended, 29 U.S.C. 201 et seq.), the regulations on employment of learners (29 CFR Part 522), Administrative Order No. 485 (23 F.R. 200) and administrative Order No. 507 (23 F.R. 2720), the firms listed in this notice have been issued special certificates authorizing the employment of learners at hourly wage rates lower than the minimum wage rates otherwise applicable under section 6 of the Act. The effective and expiration dates, occupations, wage rates, number or proportion of learners, learning periods, and the principal product manufactured by the employer for certificates issued under general learner regulations (§§ 522.1 to 522.11) are as indicated below. Conditions provided in certificates issued under special industry regulations are as established in these regulations.

Apparel Industry Learner Regulations (29 CFR 522.1 to 522.11, as amended, and 29 CFR 522.20 to 522.24, as amended).

The following learner certificates were issued authorizing the employment of ten percent of the total number of factory production workers for normal labor turnover purposes. The effective and expiration dates are indicated.

Belle Manufacturing Co., Inc., 425 Pleasant Street, Fall River, Mass.; effective 8-26-59 to 8-25-60 (cotton dresses).

Blue Ridge Manufacturers, Inc., Christiansburg, Va.; effective 8-28-59 to 8-27-60 (men's and boys' dungarees).

Brewton Manufacturing, Inc., Brewton, Ala.; effective 8-26-59 to 8-25-60 (men's and boys' sport and dress shirts).

Greenwood Shirt Co., Inc., Montague Street, Greenwood, S.C.; effective 9-6-59 to 9-5-60; workers engaged in the production of men's shirts.

Greenwood Shirt Co., Inc., Montague Street, Greenwood, S.C.; effective 9-6-59 to 9-5-60; workers engaged in the production of women's apparel.

Kent Sportswear, Inc., Corwensville, Pa.; effective 9-10-59 to 9-9-60 (men's jackets).

Margit Sportswear, Inc., 1136 Washington Avenue, St. Louis, Mo.; effective 8-27-59 to 8-26-60; learners may not be employed at special minimum wage rates in the production of separate skirts (blouses, slacks, shorts, and dresses).

Sampson Sewing Co., Inc., Railroad Street, Clinton, N.C.; effective 8-27-59 to 8-26-60 (women's and children's sportswear).

Whiteville Garment Manufacturing Co., Whiteville, N.C.; effective 8-27-59 to 8-24-60 (children's denim dungarees).

The following learner certificates were issued for normal labor turnover purposes. The effective and expiration dates and the number of learners authorized are indicated.

Adairsville Garment Co., Adairsville, Ga.; effective 8-28-59 to 8-27-60; 10 learners engaged in the production of men's sport shirts.

Fay Sportwear Co., 349 High Street, Burlington, N.J.; effective 8-31-59 to 8-30-60; four learners. Learners may not be employed at special minimum wage rates in the production of separate skirts (ladies' and children's dresses and sportswear).

Love Land Togs, Inc., 270 Bradford Street, Albany, N.Y.; effective 8-31-59 to 8-30-60; five learners (children's dresses).

Rowker Manufacturing Co., Tunkhannock, Pa.; effective 8-31-59 to 8-30-60; 10 learners (ladies' dresses).

Seneca Sportswear Manufacturing Co., 1234 Bryn Mawr Street, Scranton, Pa.; effective 8-28-59 to 8-27-60; 10 learners (boys' outerwear, jackets).

The following learner certificates were issued for plant expansion purposes. The effective and expiration dates and the number of learners authorized are indicated.

Biflex-Marion, Inc., Marion, Ala.; effective 8-27-59 to 2-26-60; 35 learners (ladies' cotton brassieres).

Glenwood Manufacturing Co., Inc., Clintwood, Va.; effective 8-27-59 to 2-26-60; 35 learners (men's and boys' ready to wear clothing, pants—shirts).

Jersey Shore Sylvania Manufacturing Co., Plant No. 2, Bellefont and Commerce Street, Lock Haven, Pa.; effective 8-27-59 to 12-21-59; 15 learners. Learners may not be engaged at special minimum wage rates in the production of separate skirts (ladies' sportswear).

Reidbord Brothers Co., Livingston Street, Elkins, W. Va.; effective 8-31-59 to 2-29-60; 25 learners (men's work shirts and trousers).

Sampson Sewing Co., Inc., Railroad Street, Clinton, N.C.; effective 8-27-59 to 2-26-60; 25 learners (women's and children's sportswear).

Whiteville Garment Co., Whiteville, N.C.; effective 8-27-59 to 2-26-60; 10 learners (children's denim dungarees).

Hosiery Industry Learner Regulations (29 CFR 522.1 to 522.11, as amended, and 29 CFR 522.40 to 522.44, as amended).

De Kalb Hosiery Mills, Inc., Fort Payne, Ala.; effective 8-28-59 to 8-27-60; 5 percent of the total number of factory production workers for normal labor turnover purposes (infants' seamless hosiery).

Diamond Mills Corp., Hanover Division, 3402 South Front Street, Wilmington, N.C.; effective 9-2-59 to 3-1-60; 100 learners for plant expansion purposes (seamless).

C. J. Jessup & Co., Claremont, N.C.; effective 8-31-59 to 8-30-60; five learners for normal labor turnover purposes (seamless).

Knit Products Corp., Belmont, N.C.; effective 8-31-59 to 8-30-60; 5 percent of the total number of factory production workers for normal labor turnover purposes (full-fashioned, seamless).

Outlook Manufacturing Co., Belmont, N.C.; effective 8-31-59 to 8-30-60; five learners for normal labor turnover purposes (seamless).

Knitted Wear Industry Learner Regulations (29 CFR 522.1 to 522.11, as amended, and 29 CFR 522.30 to 522.35, as amended).

Snowden, Inc., Osceola, Iowa; effective 8-26-59 to 8-25-60; 5 percent of the total number of factory production workers for normal labor turnover purposes (replacement certificate) (women's lingerie).

Shoe Industry Learner Regulations (29 CFR 522.1 to 522.11, as amended, and 29 CFR 522.50 to 522.55, as amended).

Sham-O-Kin Shoe Corp., Franklin Street, Shamokin, Pa.; effective 9-1-59 to 2-29-60; 50 learners for plant expansion purposes (women's leather shoes).

Wilson Shoe Corp., Franklin Street, Shamokin, Pa.; effective 9-1-59 to 2-29-60; 100 learners for plant expansion purposes (women's leather shoes).

Regulations Applicable to the Employment of Learners (29 CFR 522.1 to 522.11, as amended).

Advertisers Manufacturing Co., Ripon, Wis.; effective 9-4-59 to 3-3-60; 5 percent of the total number of factory production workers for normal labor turnover purposes in the occupation of sewing machine operator for a learning period of 240 hours at the rate of 90 cents an hour (caps, aprons, newsbags).

The following learner certificates were issued in Puerto Rico to the companies hereinafter named. The effective and expiration dates, learner rates, occupations, learning periods, and the number or proportion of learners authorized to be employed, are as indicated.

Clairex Corp. of Puerto Rico, 65th Infantry Avenue, East 3.6, Villa Prades Industrial Dev., Rio Piedras, P.R.; effective 8-17-59 to 2-16-60; 20 learners for plant expansion purposes in the occupations of photo cell assemblers, inspection and testing each for a learning period of 480 hours at the rates of 80 cents an hour for the first 240 hours and 90 cents an hour for the remaining 240 hours (Photo electric cells).

Craftsman Billfolds of Puerto Rico, Caguas, P.R.; effective 8-11-59 to 2-10-60; 12 learners for plant expansion purposes in the occupations of (1) stitching machine operators for a learning period of 320 hours at the rates of 43 cents an hour for the first 160 hours and 50 cents an hour for the remaining 160 hours; (2) cutter (die and clicker machine operator), gold tooling stampers, skiving machine operators each for a learning period of 160 hours at the rate of 43 cents an hour (leather billfolds).

Linda Bra, Inc., Aguas Buenas, P.R.; effective 7-29-59 to 7-28-60; 13 learners for normal labor turnover purposes in the occupation of sewing machine operators for a learning period of 480 hours at the rates of 60 cents an hour for the first 320 hours and 70 cents an hour for the remaining 160 hours (brassieres).

Mace Corp., Luchetti Industrial Development, Bayamon, P.R.; effective 8-7-59 to 2-6-60; 17 learners for plant expansion purposes in the occupations of disassembly and assembly of arms, polishing and buffing, inspectors, machine operations each for a learning period of 480 hours at the rates of 75 cents an hour for the first 240 hours and 88 cents an hour for the remaining 240 hours (conversion of S.M.L.E. No. 4 rifles to sporting rifles).

Shelen, Inc., 18 San Vicente Street, Mayaguez, P.R.; effective 8-3-59 to 2-2-60; 20

learners for plant expansion purposes in the occupation of sewing and embroidery machine operators for a learning period of 480 hours at the rates of 60 cents an hour for the first 320 hours and 70 cents an hour for the remaining 160 hours (replacement certificate) (Elastic girdles).

Uniforms, Inc., Cayey, P.R.; effective 7-31-59 to 7-30-60; 10 learners for normal labor turnover purposes in the occupation of sewing machine operators for a learning period of 480 hours at the rates of 58 cents an hours for the first 240 hours and 68 cents an hour for the remaining 240 hours (uniforms for nurses and maids).

The following learner certificate was issued in The Virgin Islands to the company hereinafter named. The effective and expiration dates, learner rates, occupations, learning periods, and the number or proportion of learners authorized to be employed, are indicated.

Crystal Mfg. Inc., St. Thomas, V.I.; effective 8-6-59 to 8-5-60; five learners for normal labor turnover purposes in the occupations of linking (earrings), stringing (necklaces) each for a learning period of 160 hours at the rate of 45 cents an hour (costume jewelry (earrings and necklaces)).

Each learner certificate has been issued upon the representations of the employer which, among other things, were that employment of learners at subminimum rates is necessary in order to prevent curtailment of opportunities for employment, and that experienced workers for the learner occupations are not available. The certificates may be annulled or withdrawn, as indicated therein, in the manner provided in Part 528 of Title 29 of the Code of Federal Regulations. Any person aggrieved by the issuance of any of these certificates may seek a review or reconsideration thereof within fifteen days after publication of this notice in the FEDERAL REGISTER pursuant to the provisions of 29 CFR 522.9.

Signed at Washington, D.C., this 2d day of September 1959.

ROBERT G. GRONEWALD,
Authorized Representative of the Administrator.

[F.R. Doc. 59-7774; Filed, Sept. 17, 1959; 8:48 a.m.]

ATOMIC ENERGY COMMISSION

[Docket No. 27-22]

U.S. NUCLEAR CORP.

Notice of Application for Byproduct, Source and Special Nuclear Material License

Please take notice that an application for a license to provide a radioactive waste disposal service has been filed by the U.S. Nuclear Corporation, 801 North Lake Street, Burbank, California.

The application specifies a maximum possession limit of 100 curies of byproducts material, 2,500 pounds of source material, and 150 grams of special nuclear material.

The applicant proposes to dispose of the waste in the Pacific Ocean within a 5 mile radius circle the center of which is at a point designated as parallel of latitude 32°00′ N. and meridian of longitude 121°30′ W. where the minimum depth is 1,000 fathoms or at other locations in the Pacific Ocean at a minimum depth of 1,000 fathoms when approved by the Commission. The material will be packaged and stored at the U.S. Nuclear Corporation's facility located at 801 North Lake Street, Burbank, California.

A copy of the application is available for public inspection in the Atomic Energy Commission's Public Document Room at 1717 H Street NW., Washington, D.C.

Dated at Germantown, Md., this 11th day of September 1959.

For the Atomic Energy Commission.

H. L. PRICE,
Director, Licensing and Regulation.

[F.R. Doc. 59-7745; Filed, Sept. 17, 1959; 8:45 a.m.]

[Docket No. 50-29]

YANKEE ATOMIC ELECTRIC CO.

Notice of Amendment to Construction Permit

Please take notice that the Atomic Energy Commission has issued to Yankee Atomic Electric Company, Amendment No. 4, set forth below, to Construction Permit No. CPPR-5, as requested by an application dated February 18, 1959. The amendment (1) decreases the allocation of special nuclear material required for operation of the reactor to 6,002.6 kilograms of contained uranium-235, and (2) revises the schedule of receipts and transfers of uranium-235.

The Commission has found that the issuance of the amendment is not inimical to the common defense and security.

Dated at Germantown, Maryland, this 11th day of September 1959.

For the Atomic Energy Commission.

R. L. KIRK,
Deputy Director, Division of Licensing and Regulations.

[Construction Permit CPPR-5, Amdt. 4]

The final paragraph and Appendix "A" of Construction Permit No. CPPR-5 are hereby amended to read as follows:

Pursuant to Section 50.60 of the regulations in Title 10, Chapter 1, CFR, Part 50, the Commission has allocated to Yankee for use in the operation of the reactor, 6,002.6 kilograms of uranium-235 contained in uranium at the isotopic ratios specified in Yankee's application for license. Estimated schedules of special nuclear material transfers to Yankee and returns to the Commission are contained in Appendix "A" which is attached hereto. Shipments by the Commission to Yankee in accordance with column (2) in Appendix "A" will be conditioned upon Yankee's return to the Commission of material substantially in accordance with column (3) of Appendix "A".

APPENDIX "A"

Estimated Schedule of Transfers of Special Nuclear Material from the Commission to Yankee and to the Commission from Yankee:

(1) Date of transfer (fiscal year)	(2) Transfers from AEC to Yankee (a), kgs. U-235	(3) Returns by Yankee to AEC (b), kgs. U-235	(4) Net yearly distribution including cumulative losses, kgs. U-235	(5) Cumulative distribution including cumulative losses, kgs. U-235
1959	208.8	----------	208.8	208.8
1960	590.2	----------	590.2	799.0
1961	719.1	----------	719.1	1,518.1
1962	803.1	623.2(c)	179.9	1,698.0
1963	----------	545.9	(545.9)	1,152.1
1964	814.3	622.8	191.5	1,343.6
1965	815.0	----------	815.0	2,158.6
1966	----------	622.8	(622.8)	1,535.8
1967	815.0	622.8	192.2	1,728.0
1968	815.0	----------	815.0	2,543.0
1969	----------	622.8	(622.8)	1,920.2
1970	815.0	622.8	192.2	2,112.4
1971	815.0	----------	815.0	2,927.4
1972	----------	622.8	(622.8)	2,304.6
1973	815.0	622.8	192.2	2,496.8
1974	815.0	----------	815.0	3,311.8
1975	----------	622.8	(622.8)	2,689.0
1976	815.0	622.8	192.2	2,881.2
1977	815.0	----------	815.0	3,696.2
1978	----------	622.8	(622.8)	3,073.4
1979	815.0	622.8	192.2	3,265.6
1980	815.0	----------	815.0	4,080.6
1981	----------	622.8	(622.8)	3,457.8
1982	815.0	622.8	192.2	3,650.0
1983	815.0	----------	815.0	4,465.0
1984	----------	622.8	(622.8)	3,842.2
1985	815.0	622.8	192.2	4,034.4
1986	815.0	----------	815.0	4,849.4
1987	----------	622.8	(622.8)	4,226.6
1988	815.0	622.8	192.2	4,418.8
1989	815.0	----------	815.0	5,233.8
1990	----------	622.8	(622.8)	4,611.0
1991	815.0	622.8	192.2	4,803.2
1992	815.0	----------	815.0	5,618.2
1993	----------	622.8	(622.8)	4,995.4
1994	815.0	622.8	192.2	5,187.6
1995	815.0	----------	815.0	6,002.6
1996	----------	622.8	(622.8)	5,379.8
1997	815.0	622.8	192.2	5,572.0
1998	----------	622.8	(622.8)	4,949.2
1999	----------	[1] 61.2(a)	(61.2)	[2] 4,888.0
	21,065.5	16,177.5	[2] 4,888.0	

(a) 3.4 percent U-235.
(b) 2.65 percent U-235 (hot fuel) except (c) and (a).
(c) 3.025 percent U-235 (hot fuel).
[1] Inventory to be returned.
[2] Fabrication and burnup losses.

This amendment is effective as of the date of issuance.

Date of issuance: September 11, 1959.

For the Atomic Energy Commission.

R. L. KIRK,
Deputy Director, Division of Licensing & Regulation.

[F.R. Doc. 59-7746; Filed, Sept. 17, 1959; 8:45 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 13178; FCC 59M-1158]

W. D. COONS AND A. E. MOORER

Order Scheduling Hearing

In the matter of W. D. Coons and A. E. Moorer, Indian Street, Mount Pleasant, South Carolina, Docket No. 13178, order to show cause why there should not be revoked the license for radio station WH-5445, aboard the vessel "Barbara Lee."

It is ordered, This 11th day of September, 1959, that Forest L. McClenning will

preside at the hearing in the above-entitled proceeding which is hereby scheduled to commence on November 25, 1959, in Washington, D.C.

Released: September 14, 1959.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-7788; Filed, Sept. 17, 1959; 8:50 a.m.]

[Docket No. 13176; FCC 59M-1156]

VERNON F. CROTTS

Order Scheduling Hearing

In the matter of Vernon F. Crotts, Box 1125, Aransas Pass, Texas, Docket No. 13176, order to show cause why there should not be revoked the license for Radio Station WA-3357 aboard the vessel "Carey."

It is ordered, This 11th day of September 1959, that H. Gifford Irion will preside at the hearing in the above-entitled proceeding which is hereby scheduled to commence on November 24, 1959, in Washington, D.C.

Released: September 14, 1959.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-7789; Filed, Sept. 17, 1959; 8:50 a.m.]

[Docket No. 12879; FCC 59M-1150]

FREDERIC C. DOUGHTY

Order Conitnuing Hearing

In the matter of Frederic C. Doughty, Springfield, Pennsylvania, Docket No. 12879, suspension of amateur radio operator license (W3PHL).

The Hearing Examiner having under consideration an "Application for Continuance" filed on September 4, 1959, by counsel for respondent, requesting that the hearing in the above-entitled proceeding now scheduled for September 29, 1959 be continued "for a period in excess of 60 days", and

It appearing that the reason given for the requested continuance is that counsel was not retained until August 22, 1959, and he desires additional time to familiarize himself with the complex and technical nature of the subject matter inherent in the hearing issues as well as with applicable Commission's rules; and

It further appearing that this matter was originally scheduled to be heard on July 24, 1959, but that the Hearing Examiner on his own motion ordered a continuance until September 29, 1959; and

It further appearing that notwithstanding the lack of objection to counsel's request on the part of the Safety and Special Radio Service Bureau, the respondent's dilatory conduct in retaining counsel does not serve as the vehicle for unduly delaying the proceeding; and

It further appearing that the continuance requested is inordinate, in light of the issues involved and of the previous continuance of the hearing to September 29, and that good cause has not been shown for granting such request;

Accordingly, It is ordered, This 11th day of September 1959, that respondent's "Application for Continuance" is denied.

It is further ordered, On the Hearing Examiner's own motion, that the hearing is continued from September 29, 1959 to October 27, 1959, at 10:00 o'clock a.m., in Philadelphia, Pennsylvania, to afford counsel a reasonable additional interval to prepare his case.

Released: September 14, 1959.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-7790; Filed, Sept. 17, 1959; 8:50 a.m.]

[Docket No. 13154; FCC 59M-1153]

HARMS AND ROGOWAY RADIO AND TV

Order Scheduling Hearing

In the matter of Wesley Harms and Donald Rogoway, d/b as Harms and Rogoway Radio and TV, Third and Adams, Corvallis, Oregon, Docket No. 13154, order to show cause why there should not be revoked the license for low power industrial radio station KD-3211.

It is ordered, This 11th day of September 1959, that Jay A. Kyle will preside at the hearing in the above-entitled proceeding which is hereby scheduled to commence on November 27, 1959, in Washington, D.C.

Released: September 14, 1959.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-7791; Filed, Sept. 17, 1959; 8:50 a.m.]

[Docket No. 12871; FCC 59M-1145]

JACK W. HAWKINS

Order Continuing Hearing

In re application of Jack W. Hawkins, Blanding, Utah, Docket No. 12871, File No. BP-11920, for construction permit.

The Hearing Examiner having under consideration a petition filed on September 10, 1959, by Jack W. Hawkins, requesting that the hearing in the above-entitled proceeding presently scheduled for September 14, 1959, at 2:00 p.m., be continued to September 25, 1959, at 10:00 a.m.;

It appearing, that counsel for the Broadcast Bureau has informally agreed to a waiver of the four-day requirement of § 1.43 of the Commission's rules and consented to a grant of the instant petition; and good cause has been shown for the grant thereof;

It is ordered, This 10th day of September 1959, that the petition be and it is hereby granted; and the hearing in the above-entitled proceeding be and it is hereby continued to September 25, 1959, at 10 a.m., in Washington, D.C.

Released: September 14, 1959.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-7792; Filed, Sept. 17, 1959; 8:50 a.m.]

[Docket Nos. 13191, 13192; FCC 59-935]

HI-FI BROADCASTING CO. AND RADIO HANOVER, INC.

Order Designating Applications for Consolidated Hearing on Stated Issues

In re applications of William F. Mahoney and C. W. Altland, d/b as Hi-Fi Broadcasting Co., York-Hanover, Pennsylvania, req. 98.5 Mc, #253; 8 kw; 717 ft., Docket No. 13191, File No. BPH-2663; Radio Hanover, Inc., York-Hanover, Pennsylvania, req. 98.5 Mc, #253; 7.2 kw; 730 ft., Docket No. 13192, File No. BPH-2689; for construction permits.

At a session of the Federal Communications Commission held at its offices in Washington, D.C., on the 9th day of September 1959;

The Commission having under consideration the above-captioned and described applications;

It appearing that except as indicated by the issues specified below the instant applicants are legally, technically, financially, and otherwise qualified to construct and operate the instant proposals; and

It further appearing that pursuant to section 309(b) of the Communications Act of 1934, as amended, the Commission, in a letter dated June 30, 1959, and incorporated herein by reference, notified the applicants, and any other known parties in interest, of the grounds and reasons for the Commission's inability to make a finding that a grant of any one of the applications would serve the public interest, convenience, and necessity; and that a copy of the aforementioned letter is available for public inspection at the Commission's offices; and

It further appearing that the applicants' replies to the aforementioned letter have not entirely eliminated the grounds and reasons precluding a grant of the said applications and requiring a hearing on the particular issues hereinafter specified; and

It further appearing that after consideration of the foregoing and the applicants' replies, the Commission is still unable to make the statutory finding that a grant of the applications would serve the public interest, convenience, and necessity; and is of the opinion that the applications must be designated for

hearing in a consolidated proceeding on the issues specified below;

It is ordered, That pursuant to section 309(b) of the Communications Act of 1934, as amended, the instant applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine the areas and populations within the 50 uv/m and 1 mv/m contours of the operations proposed, respectively by the Hi-Fi Broadcasting Co., and Radio Hanover, Inc., and the availability of other such FM broadcast service to the said areas and populations.

2. To determine, on a comparative basis, which of the instant proposals would better serve the public interest, convenience and necessity in the light of the evidence adduced pursuant to the foregoing issue and the record made with respect to the significant differences between the applicants as to:

a. The background and experience of each having a bearing on the applicant's ability to own and operate its proposed station.

b. The proposals of each of the applicants with respect to the management and operation of the proposed station.

c. The programming service proposed in each of the said applications.

3. To determine, in the light of the evidence adduced, pursuant to the foregoing issues, which, if either, of the instant applications should be granted.

It is further ordered, That to avail themselves of the opportunity to be heard, the applicants, pursuant to § 1.140 of the Commission's rules, in person or by attorney, shall, within 20 days of the mailing of this order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

It is further ordered, That, the issues in the above-captioned proceeding may be enlarged by the Examiner, on his own motion or on petition properly filed by a party to the proceeding, and upon sufficient allegations of fact in support thereof, by the addition of the following issue: To determine whether the funds available to the applicant will give reasonable assurance that the proposals set forth in the application will be effectuated.

Released: September 15, 1959.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-7793; Filed, Sept. 17, 1959; 8:50 a.m.]

[Docket No. 13170; FCC 59M-1154]

ALBERT L. KING

Order Scheduling Hearing

In the matter of Albert L. King, Gulf Shores, Alabama, Docket No. 13170, order to show cause why there should not be revoked the license for radio station WG-5519, aboard the vessel "Silver Sands."

It is ordered, This 11th day of September 1959, that Elizabeth C. Smith will preside at the hearing in the above-entitled proceeding which is hereby scheduled to commence on November 25, 1959, in Washington, D.C.

Released: September 14, 1959.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-7794; Filed, Sept. 17, 1959; 8:50 a.m.]

[Docket No. 12990]

MASSACHUSETTS STEEL TREATING CORP.

Notice of Place of Hearing

In the matter of cease and desist order to be directed to Massachusetts Steel Treating Corporation, 118 Harding Street, Worcester, Massachusetts, Docket No. 12990.

The hearing on the above-entitled matter presently scheduled for Friday, October 2, 1959, will be held at 10:00 a.m., in Room 505, Federal Building, 595 Main Street, Worcester, Massachusetts.

Dated: September 15, 1959.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-7795; Filed, Sept. 17, 1959; 8:50 a.m.]

[Docket No. 13177; FCC 59M-1157]

B. L. McDOWELL

Order Scheduling Hearing

In the matter of B. L. McDowell, Box 423, Aransas Pass, Texas, Docket No. 13177, order to show cause why there should not be revoked the license for radio station WD-8355 aboard the vessel "Bert H. Walling III."

It is ordered, This 11th day of September 1959, that Millard F. French will preside at the hearing in the above-entitled proceeding which is hereby scheduled to commence on November 24, 1959, in Washington, D.C.

Released: September 14, 1959.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-7796; Filed, Sept. 17, 1959; 8:50 a.m.]

[Docket No. 13152; FCC 59M-1151]

RED'S TAXI

Order Scheduling Hearing

In the matter of George A. Wells, d/b as Red's Taxi, 208 North Lincoln, Port Angeles, Washington, Docket No. 13152, order to show cause why there should not be revoked the license for taxicab radio station KOB-620.

It is ordered, This 11th day of September 1959, that Charles J. Frederick will preside at the hearing in the above-entitled proceeding which is hereby scheduled to commence on November 25, 1959, in Washington, D.C.

Released: September 14, 1959.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-7797; Filed, Sept. 17, 1959; 8:50 a.m.]

[Docket Nos. 12315, 12316; FCC 59M-1149]

SHEFFIELD BROADCASTING CO. AND J. B. FALT, JR.

Order Scheduling Hearing

In re applications of Iralee W. Benns, tr/as Sheffield Broadcasting Co., Sheffield, Alabama, Docket No. 12315, File No. BP-11130; J. B. Falt, Jr., Sheffield, Alabama, Docket No. 12316, File No. BP-11559; for construction permits.

Upon request of counsel for J. B. Falt, Jr., an applicant in this proceeding: *It is ordered,* This 11th day of September, 1959, that hearing herein be, and the same is hereby, scheduled for September 21, 1959, at 10:00 o'clock a.m. in the offices of the Commission, Washington, D.C.

Released: September 14, 1959.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-7798; Filed, Sept. 17, 1959; 8:50 a.m.]

[Docket Nos. 13089-13145; FCC 59M-1147]

TIFFIN BROADCASTING CO. ET AL.

Order Continuing Hearing Conference

In re applications of William E. Benns, Jr., & Barbara Benns d/b as Tiffin Broadcasting Company, Tiffin, Ohio, Docket No. 13089, File No. BP-11392; et al., Docket Nos. 13090, 13091, 13092, 13093, 13094, 13095, 13096, 13097, 13098, 13099, 13100, 13101, 13102, 13103, 13104, 13105, 13106, 13107, 13108, 13109, 13110, 13111, 13112, 13113, 13114, 13115, 13116, 13117, 13118, 13119, 13120, 13121, 13122, 13123, 13124, 13125, 13126, 13127, 13128, 13129, 13130, 13131, 13132, 13133, 13134, 13135, 13136, 13137, 13138, 13139, 13140, 13141, 13142, 13143, 13144, 13145, 13146, 13147; for construction permits.

It is ordered, This 11th day of September 1959, that a prehearing conference in the above-entitled matter heretofore scheduled for October 5, 1959 is hereby rescheduled to commence at 10:00 a.m.,

October 6, 1959, in the Commission's offices at Washington, D.C.

Released: September 14, 1959.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-7799; Filed, Sept. 17, 1959; 8:50 a.m.]

[Docket No. 13173; FCC 59M-1155]

PAUL VOISIN

Order Scheduling Hearing

In the matter of Paul Voisin, Grand Caillou Route, P.O. Box 450, Houma, Louisiana, Docket No. 13173, order to show cause why there should not be revoked the license for radio station WG-7351, aboard the vessel "Captain Lynn."

It is ordered, This 11th day of September 1959, that J. D. Bond will preside at the hearing in the above-entitled proceeding which is hereby scheduled to commence on November 27, 1959, in Washington, D.C.

Released: September 14, 1959.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-7800; Filed, Sept. 17, 1959; 8:50 a.m.]

[Docket No. 13153; FCC 59M-1152]

F. E. AND H. J. WALKER

Order Scheduling Hearing

In the matter of F. E. and H. J. Walker, Hillard, Florida, Docket No. 13153; order to show cause why there should not be revoked the license for radio station WC-7256 aboard the vessel "John T."

It is ordered, This 11th day of September 1959, that Annie Neal Huntting will preside at the hearing in the above-entitled proceeding which is hereby scheduled to commence on November 27, 1959, in Washington, D.C.

Released: September 14, 1959.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-7801; Filed, Sept. 17, 1959; 8:51 a.m.]

VHF "BOOSTERS"

Extension of Status Quo

SEPTEMBER 10, 1959.

The Commission is continuing its further study of the problems raised by proposals that it license television repeaters, commonly referred to as "boosters", in the VHF band.

Additional time will be needed to complete consideration of the matter. Meanwhile it appears desirable to maintain the status quo with reference to existing VHF "booster" operations.

Accordingly, the Commission is extending, until December 31, 1959, the general period of grace for such operations. It is hoped that by that date the Commission will have been able to resolve the remaining problems raised by proposals to license VHF "boosters". Every effort is being made to this end.

Adopted: September 9, 1959.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 59-7802; Filed, Sept. 17, 1959; 8:51 a.m.]

FEDERAL POWER COMMISSION

[Docket Nos. G-19001—G-19006]

CARTER-JONES DRILLING CO., INC., ET AL.

Order for Hearings and Suspending Proposed Changes in Rates

AUGUST 5, 1959.

In the matters of Carter-Jones Drilling Company, Inc. (Operator), et al., Docket No. G-19001; Bayou Oil Company, et al., Docket No. G-19002; Pauley Petroleum, Inc., Docket No. G-19003; Pan American Petroleum Corporation, Docket No. G-19004; Union Oil Company of California, Docket No. G-19006.

In the Order For Hearings And Suspending Proposed Changes In Rates, issued July 22, 1959, and published in the FEDERAL REGISTER on July 28, 1959 (24 F.R. 6016), change the second number in the column headed "Supp. No." from "11" to "12" also in paragraph (B) of the "The Commission orders:" change the words "Supplement No. 11 to Carter-Jones' FPC Gas Rate Schedule No. 6" to read "Supplement No. 12 to Carter-Jones' FPC Gas Rate Schedule No. 6."

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 59-7754; Filed, Sept. 17, 1959; 8:46 a.m.]

[Docket No. E-6898]

CENTRAL VERMONT PUBLIC SERVICE CORP.

Notice of Application

SEPTEMBER 11, 1959.

Take notice that on September 3, 1959, an application was filed with the Federal Power Commission pursuant to section 203 of the Federal Power Act by Central Vermont Public Service Corporation ("Applicant"), seeking an order authorizing the acquisition by it of securities of its wholly-owned subsidiary, Connecticut Valley Electric Company, Inc. ("Connecticut"). Applicant, having its principal business office at Rutland, Vermont, is a corporation organized under the laws of the State of Vermont and does business in the States of Vermont, New Hampshire and New York. Applicant is engaged primarily in the business of generating, purchasing, transmitting and selling electric energy in several counties of Vermont and also sells electric energy to four customers in Washington County in the State of New York. Connecticut, having its principal business office at Claremont, New Hampshire, is a corporation organized under the laws of the State of New Hampshire. Applicant states that Connecticut operates only in New Hampshire and is primarily engaged in the business of generating, purchasing, distributing and selling electric energy for light and power for parts of Sullivan and Grafton Counties in the State of New Hampshire. Applicant proposes to acquire a $250,000, 5½ percent note of Connecticut to be dated the first day of the month it is issued and to mature 25 years after its date in consideration of $250,000 cash to be paid by Applicant to Connecticut. In addition, Applicant proposes that 14,000 shares of $25 par value Common Stock of Connecticut now held by Applicant be changed into 14,000 shares of Common Stock of $50 par value. Applicant states that the acquisition would have no effect upon any contract of either corporation for the purchase, sale or interchange of electric energy, and that Connecticut, as a wholly-owned subsidiary of Applicant, requires additional funds to increase its working capital from $5,946 to $253,946 in order to reimburse Connecticut's treasury for capital expenditures from 1949 and for other corporate purposes. According to the application, the loan by Applicant to Connecticut would avoid the necessity of more expensive outside financing; the increase in par value of Connecticut Common Stock resulting in capitalization of earnings and the transfer from the Premiums and Assessments on Capital Stock would improve the rates of Connecticut's permanent capital to funded debt and surplus.

Any person desiring to be heard or to make any protest with reference to said application should, on or before the 12th day of October 1959, file with the Federal Power Commission, Washington 25, D.C., petitions or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). The application is on file and available for public inspection.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 59-7755; Filed, Sept. 17, 1959; 8:46 a.m.]

[Docket No. G-18240, etc.]

OHIO VALLEY GAS CORP. ET AL.

Notice of Application and Date of Hearing

SEPTEMBER 11, 1959.

In the matters of Ohio Valley Gas Corporation, Docket No. G-18240;

American Louisiana Pipe Line Company, Docket No. G–18312; Northern Indiana Public Service Company, Docket No. G–18733.

Take notice that Ohio Valley Gas Corporation (Ohio Valley), an Indiana corporation, having its principal place of business in Winchester, Indiana, filed on April 7, 1959 an application (Docket No. G–18240), pursuant to section 7(a) of the Natural Gas Act, for an order directing American Louisiana Pipe Line Company (American Louisiana) to sell and deliver to Ohio Valley an additional peak day volume of 2400 Mcf of natural gas per day over the presently authorized volume of 2500 Mcf per day for resale and distribution in Portland, Indiana, all as more fully represented in said application.

Ohio Valley estimates its annual and peak day requirements as follows:

Annual (Mcf)		
1959	*1960*	*1961*
1,285,040	1,309,768	1,316,977
Peak Day (Mcf)		
1959–60	*1960–61*	*1961–62*
4,461	4,750	4,974

Ohio Valley states that its peak day requirements during the past winter heating season were 4,376 Mcf.

American Louisiana Pipe Line Company, a Delaware corporation, having its principal place of business at 645 Griswold Street, Detroit, Michigan, filed on April 15, 1959 an application (Docket No. G–18312) and on April 27, 1959 and July 1, 1959 supplements thereto, for a certificate of public convenience and necessity authorizing it to construct and operate two new compressor stations, to be known as Stations 2 and 5, with 8,000 and 10,000 compressor horsepower, respectively, for the purpose of expanding the capacity of American Louisiana's pipeline by 43,000 Mcf per day, in order to meet the requirements of its present markets.

American Louisiana alleges that the installation of the proposed facilities will provide the increase in capacity which American Louisiana previously proposed as "step two" of its expansion program in Docket No. G–10396, but American Louisiana's gas supply was sufficient to support only "step one" of the expansion program as a result of Gulf Refining Company's undertaking to cancel four of the five contracts upon which American Louisiana relied to support its expansion program.

American Louisiana alleges that it now has a sufficient gas supply to support the proposed expansion.

The additional 43,000 Mcf of capacity is proposed to be delivered on the average day as follows:

	Mcf per day
Michigan Consolidated	30,600
Michigan Wisconsin	10,500
Ohio Valley	1,900

The design peak day sales capacity of the American Louisiana system after installation of the proposed facilities is 400,000 Mcf per day. Under maximum operating conditions, using all available horsepower, the system as proposed could deliver 429,100 Mcf per day.

On a peak day it is proposed that Ohio Valley will receive 2,495 Mcf per day in addition to the presently authorized 2,500 Mcf per day, which will raise the total amount available to Ohio Valley on a peak day to 4,995 Mcf per day. According to flow diagrams attached to the application, American Louisiana, on an average day, will deliver a total of 99,400 Mcf to Michigan Wisconsin and 290,400 Mcf to Michigan Consolidated. Using all available horsepower, including the proposed additional 18,000 horsepower, American Louisiana could deliver 104,700 Mcf per day to Michigan Wisconsin and 314,200 Mcf per day to Michigan Consolidated. Other deliveries could also be made to smaller customers, such as Lincoln Natural Gas Co. and Paris-Henry County Public Utilities District.

The estimated annual and peak day market requirements of Michigan Consolidated, Michigan Wisconsin and Ohio Valley are as follows:

	Annual requirements—Mcf	
	1960	1961
Michigan Consolidated:		
Firm	187,019,400	195,657,600
Interruptible	32,293,000	32,293,000
Michigan Wisconsin (exclusive of Michigan Consolidated):		
Firm	110,677,900	123,561,100
Interruptible	19,803,200	23,779,800
Ohio Valley:		
Firm	1,309,768	1,316,977
Total firm [1]	299,007,068	320,535,677
Total interruptible	52,096,200	56,072,800
	Firm peak day requirements—Mcf	
	1960	1961
Michigan Consolidated	1,391,279	1,452,384
Michigan Wisconsin (exclusive of Michigan Consolidated)	813,184	906,227
Ohio Valley	4,750	4,974
Total [1]	2,209,213	2,363,585

[1] Does not include the requirements of two small customers of American Louisiana: Lincoln Natural Gas Company and Paris-Henry County Public Utilities District.

These requirements are to be met not only by American Louisiana but also by other sources of supply available to Michigan Wisconsin and Michigan Consolidated.

The estimated cost of these proposed facilities is $6,081,000, which American Louisiana proposed to finance from funds on hand.

Northern Indiana Public Service Company (Northern Indiana), an Indiana corporation, having its principal place of business at 5265 Hohman Avenue, Hammond, Indiana, filed on June 8, 1959 an application (Docket No. G–18733), pursuant to section 7(a) of the Natural Gas Act, for an order directing American Louisiana Pipe Line Company to establish physical connection of its transportation facilities with the facilities proposed to be constructed by Northern Indiana and to sell and deliver to Northern Indiana its natural gas requirements for the town of LaGrange and environs, LaGrange County, Indiana, which is presently without natural gas service.

Northern Indiana proposes to construct and operate approximately ¼ mile of 6-inch transmission lateral to extend from an interconnection with the facilities of American Louisiana south of LaGrange. Northern Indiana also plans to construct and operate a local distribution system for service to the residents of LaGrange.

The estimated cost of the proposed construction is $185,400, which Northern Indiana proposes to finance from funds on hand.

Peak day and annual requirements for LaGrange are estimated as follows:

Year	Requirements in Mcf	
	Peak day	Annual
1	461	70,600
2	593	67,100
3	729	81,710

The above numbered applications are on file with the Commission and open for public inspection.

These related matters should be heard on a consolidated record and disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on November 3, 1959, at 10:00 a.m., e.d.s.t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D.C., concerning the matters involved in and the issues presented by such applications.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before October 21, 1959.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 59–7756; Filed, Sept. 17, 1959; 8:46 a.m.]

[Docket No. G–19032]

PHILLIPS PETROLEUM CO.

Order for Hearing and Suspending Proposed Change in Rate

JULY 28, 1959.

Phillips Petroleum Company (Phillips), in June 29, 1959, tendered for filing a proposed change in its presently effective rate schedule for the sale of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increase in rate and charge, is contained in the following designated filing:

Description: Notice of Change, dated June 23, 1959.

Purchaser: Michigan Wisconsin Pipe Line Company.

Rate schedule designation: Supplement No. 23 to Phillips' FIC Gas Rate Schedule No. 4.

Effective date: August 1, 1959 (Stated effective date is that requested by Phillips).

Phillips instant rate schedule covers gas produced from so called "Texas Dedicated Acreage," "Stratford Acreage," and "Oklahoma Dedicated Acreage." The level of rate differs as to each acreage as does the type of increase in rate and the quantum of such increase. The increase in rate in the so called Texas and Oklahoma dedicated acreages is of the spiral escalation type while that in the so called Stratford acreage is of the favored-nations type. The instant spiral escalation increased rates are based upon the increased rates of Michigan-Wisconsin which are currently in effect subject to refund. The favored-nations increase in rate is triggered by the spiral increased rates applicable to the sales from the "dedicated acreage." It would appear, therefore, that the favored-nation type increase is prematurely tendered. However, the public interest would appear to be best served by waiving the limitation as to notice requirements as set out in § 154.94(b) of the Commission's regulations so that the three levels of rate in the rate schedule may be reviewed concurrently.

The increased rate and charge so proposed has not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the proposed change and that Supplement No. 23 to Phillips' FPC Gas Rate Schedule No. 4 be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the Regulations under the Natural Gas Act (18 CFR Chapter I), a public hearing shall be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge contained in Supplement No. 23 to Phillips' FPC Gas Rate Schedule No. 4.

(B) Pending the hearing and decision thereon, the supplement is hereby suspended and the use thereof deferred until January 1, 1960 and until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplement hereby suspended nor the rate schedule sought to be altered thereby shall be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

(D) Interested State commissions may participate as provided by Sections 1.8 and 1.37(f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37(f)).

By the Commission.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 59-7757; Filed, Sept. 17, 1959; 8:46 a.m.]

[Docket No. G-18503]

TENNESSEE NATURAL GAS LINES, INC.

Notice of Application and Date of Hearing

SEPTEMBER 11, 1959.

Take notice that on May 11, 1959, and as supplemented on June 19, 1959, Tennessee Natural Gas Lines, Inc. (Applicant) filed an application in Docket No. G-18503, pursuant to section 7(c) of the Natural Gas Act, for a certificate of public convenience and necessity seeking authorization to construct and operate 5,200 feet of 6-inch pipeline from its Old Hickory main line near Nashville, Tennessee, to the city limits of Goodlettsville, Tennessee, and a 1,500 foot service line to be attached to the 6-inch line, plus metering stations on each of the proposed lines.

The application states that the proposed construction is to enable Applicant to intitiate deliveries of natural gas to Nashville Gas Company (Nashville Gas), a wholly-owned subsidiary of Applicant, for resale in the town of Goodlettsville and to deliver firm and interruptible natural gas directly from the proposed service line to the Gates Rubber Company's (Gates) new plant in the same area. Applicant now purchases natural gas from Tennessee Gas Transmission Company (Tennessee Gas) near Nashville and transports and resells such natural gas to Nashville Gas for resale in the Nashville area.

The estimated cost of Applicant's proposed facilities is $56,082 and such cost will be borne by current cash funds on hand.

Nashville Gas has received certificate authorization from the Tennessee Public Service Commission to serve Goodlettsville, and Goodlettsville granted Nashville Gas a franchise to distribute natural gas.

Applicant estimates the natural gas requirements in Mcf at 14.73 psia of Goodlettsville as follows:

	1st year	2d year	3d year
Peak day (Mcf)	151	246	359
Annual (Mcf)	18,707	30,706	44,594

Natural gas requirements in Mcf at 14.73 psia of Gates are estimated as follows:

	1st year	2d year	3d year
Peak day (Mcf):			
Firm	80	225	225
Interruptible	----------	3,000	3,000
Total	----------	3,225	3,225
Annual (Mcf):			
Firm	20,000	20,000	60,000
Interruptible	400,000	400,000	600,000
Total	420,000	420,000	660,000

The natural gas supply for these new services is to come from Applicant's existing authorized contract quantity of 108,653 Mcf per day at 14.73 psia available from Tennessee Gas.

Applicant will serve Nashville Gas for Goodlettsville under its currently effective Rate G-1 of its FPC Gas Tariff. Applicant proposes to serve Gates with firm gas at 78.8 cents per Mcf and interruptible gas at 28.45 cents per Mcf.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on October 15, 1959, at 9:30 a.m., e.d.s.t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D.C., concerning the matters involved in and the issues presented by such application: *Provided, however,* That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of § 1.30(c)(1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before October 5, 1959. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 59-7758; Filed, Sept. 17, 1959; 8:46 a.m.]

NATIONAL LABOR RELATIONS BOARD

DESCRIPTION OF ORGANIZATION[1]

Public Information Places

Pursuant to the provisions of section 3 (a)(1) of the Administrative Procedures Act (Pub. Law 404, 79th Cong., 2d Sess.), the National Labor Relations Board hereby separately states and concurrently publishes in the Notices section of the FEDERAL REGISTER the following amendment to its description of organization in the field in respect to the places at which the public may secure information or make submittals or requests.

[1] This amends Description of Organization which appeared at 13 F.R. 3090, with amendments appearing at 13 F.R. 6266, 15 F.R. 973, 16 F.R. 1696, 19 F.R. 1259, 21 F.R. 9914 and 22 F.R. 6881.

The Thirty-ninth Sub-Regional Office with headquarters at 650 M & M Building, 1 Main Street, Houston, Texas is hereby designated as the Twenty-third Regional Office.

(Sec. 6, 49 Stat. 452, as amended; 29 U.S.C. 156)

Dated, Washington, D.C., September 14, 1959.

By direction of the Board:

[SEAL] FRANK M. KLEILER, *Executive Secretary.*

[F.R. Doc. 59-7776; Filed, Sept. 17, 1959; 8:48 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 2-12615]

ALTEC COMPANIES INC.

Notice of Application for Exemption

SEPTEMBER 14, 1959.

Notice is hereby given that Altec Companies Inc., a Delaware corporation (issuer), has filed an application pursuant to Rule 15d-20 of the general rules and regulations under the Securities Exchange Act of 1934 (Act) (17 CFR 240.15d-20) for an order exempting the issuer from the operation of section 15(d) of the Act with respect to the duty to file any reports required by that section and the rules and regulations thereunder.

Rule 15d-20 permits the Commission upon application and subject to appropriate terms and conditions, to exempt an issuer from the duty to file annual and other periodic reports if the Commission finds that all of the outstanding securities of the issuer are held of record, as therein defined, that the number of such record holders does not exceed 50 persons and that the filing of such reports is not necessary in the public interest or for the protection of investors.

The application states with respect to the request for exemption from the reporting requirements of section 15(d) of the Act, as follows:

1. That issuer has outstanding 335,000 shares of common stock, $1 par value, of which in excess of 99 percent is owned by Ling Electronics Inc. and the remaining shares are owned by approximately 20 persons.

2. All of the outstanding securities of issuer are held of record by not exceeding 50 persons.

3. The continued filing of periodic reports by issuer is not necessary in the public interest or for the protection of investors because all events which would normally be reported by issuer will be reported by the parent of issuer, Ling Electronics Inc. (now Ling-Altec Electronics Inc.) pursuant to section 15(d) of the Securities Exchange Act of 1934.

Notice is further given that an order granting the application upon such terms and conditions as the Commission may deem necessary or appropriate may be issued by the Commission at any time on or after September 30, 1959 unless prior thereto a hearing is ordered by the Commission. Any interested persons may not later than September 28, 1959 submit to the Commission in writing his views or any additional facts bearing upon the application or the desirability of a hearing thereon, or request the Commission in writing that a hearing be held thereon. Any such communication or request should be addressed, Secretary, Securities and Exchange Commission, Washington 25, D.C. and should state briefly the nature of the interest of the person submitting such information or requesting a hearing, the reasons for such request, and the issues of fact or law raised by the application which he desires to controvert.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 59-7777; Filed, Sept. 17, 1959; 8:48 a.m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATIONS FOR RELIEF

SEPTEMBER 15, 1959.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the general rules of practice (49 CFR 1.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 35685: *Magnesium metal or alloy—Freeport, Tex., to the south.* Filed by Southwestern Freight Bureau, Agent (No. B7635), for interested rail carriers. Rates on magnesium metal or magnesium metal alloy, carloads from Freeport, Tex., to destinations in southern territory.

Grounds for relief: Short-line distance formula, grouping and short or weak line arbitraries.

Tariff: Supplement 8 to Southwestern Freight Bureau tariff I.C.C. 4303.

FSA No. 35686: *Commodities between points in Texas.* Filed by Texas-Louisiana Freight Bureau, Agent (No. 365), for interested rail carriers. Rates on register, sales or transfer checks or tickets, noibn., carloads, and other commodities described in the application between points in Texas, over interstate routes traversing in part points in other states.

Grounds for relief: Intrastate competition and maintenance of rates from or to points in other states not subject to the same competition.

Tariff: Supplement 93 to Texas-Louisiana Freight Bureau, Agent, tariff I.C.C. 865.

FSA No. 35688: *Iron or steel slabs—Steelton, Ky., to Washington, Pa.* Filed by O. W. South, Jr., Agent (SFA No. A3841), for interested rail carriers. Rates on unfinished iron or steel slabs, carloads from Steelton, Ky., to Washington, Pa.

Grounds for relief: Truck-barge competition.

Tariff: Supplement 6 to Southern Freight Tariff Bureau tariff I.C.C. S-59.

FSA No. 35689: *Starch or dextrine—Illinois territory points to Zee, La.* Filed by O. W. South, Jr., Agent (SFA No. A-3840), for interested rail carriers. Rates on starch or dextrine, carloads from specified points in Illinois, Indiana, Iowa, and Missouri to Zee, La.

Grounds for relief: Barge competition from certain origins and market competition from other origins.

Tariffs: Supplement 164 to Illinois Freight Association tariff I.C.C. 776, Supplement 161 to Southern Freight Association Tariff I.C.C. 1548.

FSA No. 35690: *Commodities from and to Airbase Spur, Kans.* Filed by Southwestern Freight Bureau, Agent (No. B-7637), for interested rail carriers. Rates on various commodities from and to Airbase Spur, Kans., to and from points in the United States and Canada.

Grounds for relief: Establishment of new station and rates from and to such point same as from and to Great Bend, Kans.

Tariffs: Supplement 372 to Southwestern Freight Bureau tariff I.C.C. 4109 and other schedules listed in the application.

FSA No. 35691: *Fine coal—Southwestern fields to Carroll, Iowa.* Filed by Southwestern Freight Bureau, Agent (No. B-7638), for interested rail carriers. Rates on fine coal, carloads from mines in Arkansas, Kansas, Missouri, and Oklahoma to Carroll, Iowa.

Grounds for relief: Competition with natural gas.

Tariff: Supplement 51 to Southwestern Lines tariff I.C.C. 4270.

FSA No. 35692: *Beet pulp—Western points to Florida.* Filed by Western Trunk Line Committee, Agent (No. A-2085), for interested rail carriers. Rates on dry beet pulp, carloads, from specified points in Colorado, Idaho, Nebraska, Oregon and Washington to points in Florida.

Grounds for relief: Competition with beet pulp imported from foreign countries through Florida ports.

FSA No. 35693: *Coal—Inner and outer crescent to Cincinnati, Ohio switching district.* Filed by Roy S. Kern, Agent (No. 55), for interested rail carriers. Rates on coal, including bituminous or cannel and coal briquettes, carloads from stations and mines on the Baltimore and Ohio Railroad Company and connections and New York Central Railroad Company in the inner and outer crescent regions to station in Ohio in the Cincinnati, Ohio switching district.

Grounds for relief: Market competition and restoration of origin differential rate relations disrupted by the general rate increases.

Tariffs: Supplement 45 to Baltimore and Ohio Railroad tariff C&C Series I.C.C. 3122. Supplement 92 to New York Central tariff I.C.C. 1206.

AGGREGATE-OF-INTERMEDIATES

FSA No. 35687: *Commodities between points in Texas.* Filed by Texas-Louisiana Freight Bureau, Agent (No. 366), for interested rail carriers. Rates on

bagging, cotton bale covering, and other commodities, as described in the application from and to specified points in Texas, and between points in Texas, over interstate routes through outside Texas.

Grounds for relief: Maintenance of depressed rates established to meet intrastate competition without use of such rates as factors in constructing lower combination rates.

Tariff: Supplement 93 to Texas-Louisiana Freight Bureau tariff I.C.C. 865.

By the Commission.

[SEAL] HAROLD D. McCOY, *Secretary.*

[F.R. Doc. 59-7770; Filed, Sept. 17, 1959; 8:48 a.m.]

[Notice 190]

MOTOR CARRIER TRANSFER PROCEEDINGS

SEPTEMBER 15, 1959.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 179), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC 62491. By order of September 11, 1959, The Transfer Board approved the transfer to Mardas Motor Freight, Inc., Merchantville, N.J., a portion of Certificate in No. MC 60572, issued August 5, 1949, to National Hauling Contractors Co., Inc., Vineland, N.J., authorizing the transportation of: Such merchandise as is dealt in by wholesale, retail and chain grocery and food business houses, and in connection therewith, equipment, materials and supplies used in the conduct of such business, between Philadelphia, Pa., on the one hand, and, on the other, Newark and Orange, N.J., Baltimore, Md., points in District of Columbia, New Jersey, Pennsylvania, and Delaware; and fruit, produce and advertising matter pertaining to such commodities, between Philadelphia, Pa., and New York, N.Y. Brodsky & Lieberman, 1776 Broadway, New York 17, N.Y., and Bowes & Millner, 1060 Broad St., Newark 2, N.J., attorneys for applicants.

[SEAL] HAROLD D. McCOY, *Secretary.*

[F.R. Doc. 59-7771; Filed, Sept. 17, 1959; 8:48 a.m.]

[Rev. S.O. 562, Taylor's I.C.C. Order 107]

LOUISVILLE AND NASHVILLE RAILROAD CO.

Diversion or Rerouting of Traffic

In the opinion of Charles W. Taylor, the Louisville and Nashville Railroad Company, account bridge burned out at Pascagoula, Mississippi, is unable to transport traffic routed over its line.

It is ordered, That:

(a) *Rerouting traffic.* The Louisville and Nashville Railroad Company and its connections are hereby authorized to divert or reroute such traffic over any available route to expedite the movement, regardless of routing shown on the waybill. The billing covering all such cars rerouted shall carry a reference to this order as authority for the rerouting.

(b) *Concurrence of receiving roads to be obtained.* The railroad desiring to divert or reroute traffic under this order shall confer with the proper transportation officer of the railroad or railroads to which such traffic is to be diverted or rerouted, and shall receive the concurrence of such other railroads before the rerouting or diversion is ordered.

(c) *Notification to shippers.* The carriers rerouting cars in accordance with this order shall notify each shipper at the time each car is rercuted or diverted and shall furnish to such shipper the new routing provided under this order.

(d) Inasmuch as the diversion or rerouting of traffic by said agent is deemed to be due to carrier's disability, the rates applicable to traffic diverted or rerouted by said agent shall be the rates which were applicable at the time of shipments on the shipments as originally routed.

(e) In executing the directions of the Commission and of such Agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic; divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with the pertinent authority conferred upon it by the Interstate Commerce Act.

(f) *Effective date.* This order shall become effective at 11:00 a.m., September 12, 1959.

(g) *Expiration date.* This order shall expire at 11:59 p.m., September 25, 1959, unless otherwise modified, changed, suspended or annulled.

It is further ordered, That this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and per diem agreement under the terms of that agreement and by filing it with the Director, Office of the Federal Register.

Issued at Washington, D.C., September 12, 1959.

INTERSTATE COMMERCE COMMISSION,
CHARLES W. TAYLOR, *Agent.*

[F.R. Doc. 59-7772; Filed, Sept. 17, 1959; 8:48 a.m.]

Title 2—THE CONGRESS

ACTS APPROVED BY THE PRESIDENT

EDITORIAL NOTE: After the adjournment of the Congress *sine die,* and until all public acts have received final Presidential consideration, a listing of public laws approved by the President will appear in the daily FEDERAL REGISTER under *Title 2, The Congress.* A consolidated listing of the new acts approved by the President will appear in the Daily Digest in the final issue of the Congressional Record covering the 86th Congress, First Session.

Approved September 16, 1959

H.R. 7870 ..... Public Law 86-289
An Act to amend the Revised Organic Act of the Virgin Islands, as amended.

CUMULATIVE CODIFICATION GUIDE—SEPTEMBER

A numerical list of the parts of the Code of Federal Regulations affected by documents published to date during September. Proposed rules, as opposed to final actions, are identified as such.

3 CFR

Page

Proclamations:
2799 7517
2937 7517
2938 7517
2942 7517
2972 7517
3310 7397
3311 7397
3312 7399
3313 7517
3314 7517
Executive orders:
July 2, 1910 7251
Mar. 17, 1913 7529
Feb. 11, 1933 7337
5904 7143
9173 7253
10232 7493
10292 7493
10328 7493
10344 7493
10530 7269
10594 7493
10700 7519
10714 7493
10773 7519
10836 7269
10837 7493
10838 7519

5 CFR

6 7087, 7127, 7162, 7272, 7273, 7351, 7496, 7520

6 CFR

50 7520
331 7089
421 7090, 7092, 7237, 7239
427 7520
483 7239, 7241
484 7092

7 CFR

48 7127
52 7435
68 7403
301 7242
330 7519
722 7055, 7058
723 7243
725 7243
811 7269
813 7438
815 7438
831 7499
903 7198
905 7198
906 7198
907 7198
908 7198
911 7198
912 7198
913 7198
916 7198
917 7198
918 7198
919 7198
921 7198
922 7198, 7351
923 7198
924 7198
925 7198
928 7198
929 7198
930 7198

7 CFR—Continued

Page

931 7198
932 7198
933 7199, 7243
935 7198
941 7198
942 7198
943 7198
944 7198
946 7198
948 7198
949 7198
952 7198
953 7059, 7199, 7272, 7353, 7439
954 7198
956 7198
957 7353
959 7272
961 7403
965 7198
966 7198
967 7198
968 7059, 7198
969 7354, 7355
971 7198
972 7198
974 7198
975 7198
976 7198
977 7198
978 7198
980 7198
982 7198, 7439
985 7198
986 7198
987 7198
988 7198
989 7500
991 7198
994 7198
995 7198
998 7198
1000 7198
1002 7198
1004 7198
1005 7198
1008 7198, 7355
1009 7198
1010 7403
1011 7198
1012 7198
1013 7198
1014 7198
1016 7198
1018 7198
1023 7198
Proposed rules:
319 7107
351 7108
722 7382
729 7461
906 7510
909 7107
913 7406
924 7163
954 7409
958 7107
963 7207
970 7278
982 7380
989 7423, 7461
1002 7381
1009 7381
1024 7138
1027 7530
1066 7279

8 CFR

Page

103 7364
299 7364

9 CFR

73 7244
74 7244
76 7365
79 7307

12 CFR

217 7062
219 7062
220 7496
224 7062
329 7062

13 CFR

121 7458
128 7063

14 CFR

1 7065
3 7065
4b 7067
6 7072
7 7074
13 7076
20 7307, 7496, 7521
29 7309
40 7253
60 7129, 7253, 7496
225 7155
241 7253
298 7155
406 7312
507 7254, 7255, 7365, 7366, 7521
514 7521
600 7130–7132, 7366–7369
601 7130–7132, 7312, 7366–7369
602 7369, 7370
608 7273, 7312, 7313
609 7157, 7158, 7255
Proposed rules:
1 7204
3 7204
4b 7204
5 7204
6 7204
7 7204
8 7204
9 7204
10 7204
13 7204
14 7204
60 7164
221 7163
507 7164, 7552
514 7165
600 7081, 7083, 7138, 7165–7167, 7383, 7384, 7464, 7465
601 7082, 7083, 7165–7167, 7205, 7206, 7384, 7465, 7466
602 7206, 7424

15 CFR

230 7522
361 7087
371 7200
373 7200
374 7200
379 7200
382 7200
385 7200
399 7201
Proposed rules:
364 7336